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AN EVALUATION OF A SOCIAL CONTEXT TRAINING PROGRAMME FOR SOUTH AFRICAN MAGISTRATES

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ABSTRACT

This study is an evaluation of the Law, Race and Gender (LRG) Unit's social context training programme for magistrates (1998-2004). The programme was developed in the context of the political transition of 1994 and the promulgation of the new constitution. These factors created an impetus for the transformation of the justice system. Research suggests that the South African lower court system was plagued by discriminatory practices in relation to race and gender. Under apartheid magistrates were public servants and responsible for enforcing apartheid legislation. Their work demands changed after 1994, yet many members of the magistracy were ill-prepared for the new requirements of their job. The Law, Race and Gender Unit's training programme was developed to increase magistrates' awareness, knowledge and skills of the social context concerns of race and gender. The aim of the programme was to help magistrates deliver fair and equal justice to all of South Africa's citizens.

There are few published evaluations of social context training programmes for judicial officers specifically and judicial education interventions generally. This study aims to contribute to this relatively under-researched field. It is also the first study to apply Brinkerhoff's (2003; 2006) success case method (SCM) to a judicial education training programme.

The evaluation is designed according to Rossi, Lipsey & Freeman's (2004) evaluation hierarchy. The study presents the method, results and discussion of evaluations across this hierarchy. The evaluations include an assessment of the needs identification process, analysis of the programme impact theory, appraisal of programme implementation and evaluation of programme outcomes.

A variety of research methods and techniques were used in the different evaluations. These include document analysis, interviews and Brinkerhoff's (2003; 2006) SCM.

The results of the evaluation of the needs identification process suggest that the training need was not identified through a traditional systematic needs analysis. The

LRG Unit was established and funded prior to any formal needs assessment. The lack of a comprehensive needs identification process had implications for the development of the actual training intervention.

The theory evaluation uses social science research to critique the impact theory implicit in the programme and offers suggestions as to how the impact theory could be strengthened.

The implementation evaluation concludes that the training programme was well delivered and received by the trainees and external evaluators.

The results of the SCM outcome evaluation demonstrate that despite some of its limitations, the programme succeeded in enriching the education and social awareness of magistrates, which in turn enhanced their work and the way they served their communities and the ends of justice.

The study is the first of its kind in that it offers a comprehensive, multi-levelled evaluation of a social context training intervention for judicial officers. It aims to contribute new knowledge to the area of judicial education programme evaluation.

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CONTENTS

	PAGE
CHAPTER ONE	
RATIONALE FOR STUDY AND STRUCTURE OF THESIS	1
Goal of the thesis	4
Utilisation of Evaluation Results for Future Social Context Training Programmes	6
Format of this thesis.....	8
CHAPTER TWO	
ESTABLISHING THE BACKDROP: DISCRIMINATORY PRACTICES IN JUDICIAL DECISION MAKING.....	10
An A-contextual Approach to Law.....	11
Sentencing as a Non-exact Science.....	16
Remedial action through social context education for judicial officers.....	18
CHAPTER THREE	
JUDICIAL EDUCATION IN SOUTH AFRICA COMPARED AGAINST GLOBAL TRENDS AND BEST PRACTICE.....	21
Brief Background to the Development of Judicial Education Programmes... ..	21
Armytage's Model of Global Trends in Judicial Education.....	24
Goodman's Best Practice Framework for Social Context Education.....	28
Judicial Education in South Africa Measured Against Best Practices.....	38
A Template for Evaluation Questions for Generic Judicial Education Programmes.....	44
CHAPTER FOUR	
ASSESSING THE NEED IDENTIFICATION PROCESS OF THE LRG'S SOCIAL CONTEXT PROGRAMME	47
Method.....	48
Results.....	52
Discussion.....	58

CHAPTER FIVE

ASSESSING THE IMPACT THEORY OF THE LRG'S SOCIAL CONTEXT PROGRAMME	64
Method	65
Results	66
Discussion	78

CHAPTER SIX

ASSESSING THE IMPLEMENTATION OF THE LRG'S SOCIAL CONTEXT TRAINING PROGRAMME	97
Method	100
Results	103
Discussion	124

CHAPTER SEVEN

ASSESSING THE OUTCOMES OF THE LRG'S SOCIAL CONTEXT PROGRAMME	129
Logic of Applying the SCM in this Case	131
Brief Description of the SCM	132
Method	134
Results	145
Discussion	162

CHAPTER EIGHT

USING EVALUATION TO IMPROVE SOCIAL CONTEXT TRAINING PROGRAMMES	172
Suggestions for consideration	173
Global Trends and Best Process	173
Systematic Needs Identification Process	174
Improving Programme Impact Theory	175
Improving Programme Design and Delivery	180
Improving Programme Outcomes and Impact	181
Conclusion	182

REFERENCES.....	184
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APPENDICES

Appendix A	217
Appendix B	219
Appendix C	220
Appendix D	224
Appendix E	228
Appendix F	229

University of Cape Town

TABLES

	PAGE
Table 1: South African Judicial Education Compared Against Three Cases	28
Table 2: Ba's (2004) Suggested evaluation standards	33
Table 3: South Africa in relation to best practice principles	39
Table 4: Characteristics of sample.....	49
Table 5: Summary of records and documents used in documentation analysis.....	50
Table 6: Examples of workshop objectives from facilitator workbooks	70
Table 7: Examples of workshop objectives from participators' workbooks	71
Table 8: Yearly numbers of workshop attendees and averages in relation to broader population	103
Table 9: Racial breakdown of attendees and number of workshops attended	105
Table 10: Gender breakdown of attendees and number of workshops attended	106
Table 11: Occupational class breakdown of attendees and number of workshops attended.....	107
Table 12: Province breakdown of attendees and number of workshops attended.....	108
Table 13: Survey responses of trainees	136
Table 14: Response patterns of trainees on outcome measures.....	138
Table 15: Impact model for the social context training programme.....	140

FIGURES

	PAGE
Figure 1. Value chain adapted from Rossi et al.'s (2004) evaluation hierarchy	8
Figure 2. Global trends in judicial education	25
Figure 3. Best practice in social context education according programme evaluation framework	30
Figure 4. Langhorne's (2004) 360 degree evaluation model	34
Figure 5. Evaluation questions for generic judicial education programmes	45
Figure 6. Programme Logic Model	66
Figure 7. Theory of Reasoned Action.....	90
Figure 8. Theory of Planned Behaviour	91
Figure 9. Theory of Trying	93
Figure 10. Service utilisation framework	98
Figure 11. Flow diagram of the stages of the SCM	133
Figure 12. The High Success Case Interview Framework	143
Figure 13. The Low Success Case Interview Framework	144
Figure 14. Value chain adapted from Rossi et al.'s (2004) evaluation hierarchy	172

CHAPTER ONE

Rationale for Study and Structure of Thesis

This thesis presents an evaluation of the Law, Race and Gender (LRG) Unit's social context training programme for magistrates (1998-2004).

The LRG was a research and training unit housed at the University of Cape Town's (UCT) Law Faculty. The training programme was designed with the primary purpose of improving the administration and implementation of fair justice in South Africa post-1994 (Murray, 1995). The training aimed to develop the required knowledge and skills necessary for just and fair decision-making in a transforming society. At the same time, it attempted to provide magistrates with a comprehensive understanding of the spirit of the South African Constitution (1996).

The programme falls under the ambit of judicial reform interventions. These are interventions that have increased in popularity internationally over the last 50 years and are designed to bring about change in judicial processes, structures and systems.

The chief donor of the LRG was the Swedish International Development Co-operation Agency (Sida) which began funding the LRG's programme in 1995 (Karth, 2004). Their initial contribution was approximately SEK 14 million. Other donors included the United States Agency for International Development (USAID), Ford Foundation, Canadian International Development Agency, Canada-South Africa Justice Linkage Project and Foundation for Human Rights. The LRG also received resources and support from UCT.

Before outlining the goals of this thesis and its format a brief description of the programme is presented.

Programme characteristics

The main components of the LRG's activities involved the design and delivery of social context training interventions for magistrates in South Africa. These interventions generally took the form of weekend workshops based on specialised topics. The workshops were usually repeated in the main urban centres across South Africa. The LRG also offered a limited number of two-week workshops. The two-week programme took place in Cape Town and involved hosting participants from all over South Africa. These workshops were limited in number as they were resource intensive and involved high costs. The two kinds of programmes differed substantially and the evaluator chose to concentrate this evaluation on the weekend workshops as they constitute the central service offered by the LRG.

Structure, materials and activities

The programme was made up of workshops that ran over weekends. All workshops were, for the most part, uniformly structured. Approximately thirty participants were invited to attend each workshop. The LRG attempted to include a demographically diverse group of magistrates from a variety of urban and rural courts in the region at every workshop (Karth, 2004).

The workshops were broken down into a series of sessions. A variety of instructional methods were used across the sessions. These included a combination of small and large group discussions, case study analyses, subject expert input, problem-solving question-and-answer exercises, role-plays, and games.

The workshops generally started on a Friday evening with registration followed by a key-note address and a formal dinner. At registration the workshop participants received a workbook and reading pack. The facilitators were also provided with facilitation workbooks and supplementary materials. The programme organisers endeavoured to invite prominent legal practitioners such as judges, politicians or legal academics to present the key-note address. The actual training took place on

Saturday and Sunday morning and workshops usually closed before or after lunch on Sunday.

For each series of workshops the LRG developed specific training materials. These included a resource pack, participant workbook, and a similar but more extensive facilitator workbook. The content of the manuals differed depending on the specific theme of the workshop but generally included:

- Facts and information about the specific content topic
- Individual activities to be completed by the participants during the course of the workshop
- Case law and case-related information

The workshop activities aimed to facilitate knowledge, awareness and understanding of the real living conditions of people that appear before magistrates in their courts.

The design of the activities involved a variety of learning forms like small groups activities; individual self-reflection activities, case study analysis, role-playing, interactive theatre and site visits. The workshops also contained sessions where content specialists or resource facilitators presented information on substantive law issues or specialist areas.

Facilitation

Workshops were predominantly facilitated by LRG staff and contracted consultants. The LRG also adopted a peer-training methodology in their training programmes. Where possible they utilised magistrates as peer facilitators in the training. These peer facilitators were generally individual magistrates who had demonstrated a keen interest in social context concerns at previous workshops (Participant Workbook, 2002, 2003, 2004, 2005).

Resources, location and setting

The workshops took place across the country. They were located in conference venues relatively near main cities or towns. The venues generally had large conference rooms for plenary sessions and break-away rooms for small group activities and discussions.

All workshop costs were carried by the LRG including participants' accommodation, meals and transport to and from the venue.

After 2004 the activities of the LRG slowed down and over the next eighteen months the LRG's infrastructure and administrative processes were phased out and permanent staff was retrenched. The slowdown was due to a variety of factors such as changes in management, pressure from UCT's Law Faculty to increase research activities which gave faculty members less time to devote to facilitating workshops, and the non-renewal of longstanding donor funding together with the failure to procure sufficient additional funds.

A senior researcher at UCT's Gender Health and Justice Unit (GHJU) was appointed as curator of the LRG's programme and tasked with honouring outstanding projects for which there were residual funds. A limited series of workshops were conducted between 2005-2008 as joint initiatives between the LRG and the GHJU. The GHJU aims to continue the training of judicial officers and other members of the justice system in South Africa.

Despite its current dormant status the LRG still exists as an entity and there is a possibility that the LRG will become active again in the future.

Goals of thesis

The thesis aims to achieve the overarching goal of offering a rigorous, in-depth, and multi-levelled assessment of the LRG's social context training programme for magistrates. The thesis also aims to achieve two secondary goals, namely of contributing to the literature on judicial education programme evaluation and improving the potential for future funding of similar programmes in South Africa.

This is an evaluation of a completed programme. Hence, the goals differ in purpose from those of evaluations of on-going programmes. The value of the evaluation lies in its utility for the field of judicial education, for future funding proposals for similar programmes and in the recommendations for improvement of social context training interventions for judicial officers.

The goals of the evaluation include overcoming the paucity of published empirical research, and theoretical literature, on the evaluation of judicial education interventions in general and social context training programmes for judicial officers specifically. The evaluation method and results will contribute to this relatively under-researched area on both national and international levels. The evaluation aims to produce results that can contribute to the enhancement of judicial education programmes in the future.

The evaluation method employed in this case, and described in this thesis, was selected because it differs from any previous documented evaluation of judicial education interventions. In reflecting on how well the method worked, and where it could be strengthened, the evaluator aims to assist future evaluators in their endeavours to improve evaluation practice in this training domain.

Another secondary goal of the thesis is to improve the potential for funding for future training programmes offered by the LRG or other donor-funded training organisations in South Africa.

Despite the current cessation of the LRG's activities the training of judicial officers in South Africa is continuing. Organisations like the GHJU are planning on running social context training programmes for a variety of criminal justice personnel including magistrates and judges (Cohen, 2008; Prince, 2008).

The GHJU is particularly interested in developing training programmes to help judges and magistrates interpret and apply the new Criminal Law (Sexual Offences and Related Matters) Amendment Act, No. 32 of 2007, and the Criminal Law Amendment Act 5 105 of 1997. Both these Acts herald changes in the way

perpetrators, and victims, of gender violence are treated by the courts. In order to correctly apply the law, and the spirit of the law a heightened awareness of the social context issues surrounding rape and other forms of gender violence is required. Recent reports in local newspapers suggest that there are still many judicial officers in South Africa who require training in this area (Cohen, 2008). Currently in South Africa training of this kind is delivered almost exclusively by non-governmental organisations (NGO) or donor-funded research and training units.

There is increasing demand on donor-funded organisations nationally and internationally to increase accountability for the use of donor funds (Edwards & Hulme, 1995; Goddard & Assad, 2006; Davie, 2000; Lewis, 2001; Riddell, Kruse, Kyollen, Ojanpera & Vielajus, 1997; Unerman & O'Dwyer, 2006). One way of increasing accountability is through monitoring and evaluation. There is growing pressure on donor-funded organisations to include their monitoring and evaluation procedures in funding proposals. There is also pressure to demonstrate programme success when applying for additional funds.

The results of this evaluation can be used as evidence to substantiate the LRG's past successes. The lessons learned from this evaluation, and the recommendations, may offer designers of future programmes useful baseline data about what has and has not worked in the past. The consideration and/or inclusion of information based on this systematic documented evaluation may assist future motivations for donor funds.

Utilisation of evaluation results for future social context training programmes

A primary historical goal of evaluation research is to influence public policy and decision-making (Weiss, Murphy-Graham, Petrosino & Gandhi, 2008). The goal is to aid policy-makers in allocating resources wisely by providing them with reliable data and information about what kinds of interventions appear to work better than others (Weiss et al.).

There is evidence to suggest that social science research has generally failed to contribute meaningfully to policy-making in countries like the United States of America (Weiss, et al., 2008). Numerous authors have researched the possible reasons for the lack of research utilisation (Davies, Nutley & Smith, 2000; Preskill & Torres, 1999; Walter, Nutley & Davies, 2005; Weiss, et al., 2008). These range from problems associated with academic or evaluative research (Saunders, 2006; Mulgar, 2005; Taylor, 2005) to problems associated with policy-makers (Bowen & Zwi, 2005; Davies et al., 2000; Rigby, 2005; Shonkoff, 2000) to difficulties in the relationship between researchers, policy makers and practitioners (Caplan, 1977).

Part of the solution for increasing the utility of evaluation research is to ensure that it is conducted in an ethically sound manner and follows an accessible and replicable method. Similarly, recommendations emanating from evaluation should be action-oriented and presented in a comprehensible and applicable way (Boudett, City & Murnane, 2005).

This research was designed to produce results that programme staff and policy-makers can use to enhance the state of judicial education in South Africa. For example, the results of this thesis may be applicable for the South African Department of Justice and Constitutional Affairs' (DJCA) proposed establishment of the South African Judicial Education Institute (SAJEI) (South African Judicial Education Institute Bill, 2007). It is envisioned that this organisation will take centralised responsibility for the continuing professional development and training of South African judges and magistrates in the future. Unlike magistrates, South African judges have not been expected, or obligated, to attend training in the past. Historically all newly appointed magistrates have attended vocational training at Justice College. The SAJEI will provide the first institutionalised training opportunities for all professional and other staff members of the DJCA.

As the first comprehensive local evaluation of a social context training programme for judicial officers in South Africa, the evaluation results may help inform the design, development and implementation of similar training programmes emanating from the proposed SAJEI. The recommendations may also provide the staff of the SAJEI with

evaluation standards against which the services of external training providers may be assessed.

Format of this thesis

The conceptual framework for this research is the theory and practice of programme evaluation as articulated by Rossi, Lipsey and Freeman (2004). This framework was chosen as it is based on methods for social science research and involves answering evaluative questions across an evaluation hierarchy (Rossi, et al.).

An adapted form of the evaluation hierarchy informs the structure of this thesis and can be understood as a value chain of evaluation events as illustrated in Figure 1.



Figure 1. Value chain adapted from Rossi et al.'s (2004) evaluation hierarchy

The pre-step in the value chain is reflected in Chapters Two and Three of the thesis. These chapters set the context for the evaluation and present the results of a literature review on discrimination and judicial decision-making, judicial education in South Africa compared against global trends and best practice principles, and the challenges associated with evaluating judicial education programmes.

Chapters Four, Five, Six and Seven present stand-alone evaluations of each specific step in the value chain. These chapters, where possible, are reported in terms of an introduction, method, results and discussion section. The evaluation of the LRG's

social context training programme is presented in these chapters. The key research questions that inform these evaluations are:

- How was the need for the programme identified and does it present a legitimate social need?
- Is the programme based on a sound programme impact theory?
- Is the programme implemented effectively?
- What outcomes has the programme produced?

The final chapter collates the key recommendations and suggestions for consideration of these evaluations for future social context programmes for judicial officers.

CHAPTER TWO

Establishing the Backdrop: Discriminatory Practices in Judicial Decision-Making

The chapter presents the results of a review of the literature of social context training for judicial officers. The available literature in the field focuses on the underlying conditions in the courts and amongst the judiciary that led to the development of the social context education intervention. Social context training has been the intervention of choice for the eradication of discriminatory practices amongst judicial officers in numerous settings such as Canada, United States of America (USA), Australia and South Africa.

The chapter will provide the reader with background information about the limitations of the traditional a-contextual approach to law, and the problems of racial and gender discrimination in the practice of law and sentencing.

There has been growing recognition worldwide of the need for social context education for judicial officers (Armytage, 1995; Hudzick, 1991; Mahoney, 1996). This recognition is partly based on thirty years of empirical research which has highlighted that structural, gender, race and class inequalities exist in the processes, institutions and principles of legal systems throughout the modern world (Albonetti, 1991; Bemmels, 1988; Budlender, 1994; Bushway & Piehl, 2001; Coe, 1980; Cunneen, 1992; Currin, 1992; Daly, 1987, 1989; Davis, Haire & Songer, 1993; Dissel & Kollapen, 2002; Fitzmaurice & Pease, 1986; Gibson, 1978; Gruhl, Spohn & Welch, 1981; Hagan & Albonetti, 1982; Kapardis, 1985, 1997; Kgalema & Gready, 2000; Kleck, 1981; Kramer & Ulmer, 1996; Mahoney, 1996; Martin, 1993; Massie, Johnson & Gubala, 2002; Miethe & Moore, 1986; O'Shane, 1980; Pascoe, 1996; Radalet, 1981; Sampson & Lauritsen, 1997; Schanzenbach, 2004; Scott, 1988; Songer, Davis

& Haire, 1994; Songer & Crews-Meyer, 2000; Spohn, 2000; Spohn & Holleran, 2000; Spohn, Gruhl & Welch, 1987; Steffensmeier, Ulmer & Kramer, 1998; Tonry, 1996; Weitzer, 1996; Welch, Combs & Gruhl, 1988; Wonders, 1996; Zatz, 1987).

Research and experience have shown that even in societies where equality is enshrined in the constitution or mandated through legislation, unequal treatment before the law persists (Mahoney, 1996). Evidence from North American countries proves that credible judicial education interventions which train judicial officers about the impact of social context on judicial decision-making, can ameliorate this situation (Mahoney).

The aim of social context training is to educate and equip judicial officers and court officials with the necessary information for working with people of different backgrounds and orientations. The training is designed to increase awareness of multiple perspectives and differing circumstances so that judicial decision-making is appropriate to the society in which it operates. The training is aimed at transforming judicial decision-making so that it is deemed just within its social context. Social context training is particularly important in the South African context where transformation in judicial decision-making is a fundamental determinant of this democratising society.

The case for social context education for the judiciary can best be understood by analysing the traditional, positivist, a-contextual approach to law. A summary of the critiques of this approach is presented in order to establish the context in which social context education for judicial officers emerged.

An A-contextual Approach to Law

The a-contextual approach to law was the dominant legal paradigm operating in most Western democracies for the majority of the twentieth century.

The a-contextual approach falls within an area of legal philosophy called legal positivism. Legal positivism approaches the law as a scientific discipline where objective principles are dispassionately applied to actual cases (Fedler, 1999). For

example, in a homicide case where the accused has been a victim of ongoing spousal abuse (and murdered their spouse in retaliation), judicial officers sympathetic to this approach would not consider the history of being a victim of abuse as a mitigating factor in sentencing.

The a-contextual approach to judicial decision-making involves decision-making according to a set of rules based on timeless principles that are considered a-historical and a-contextual (Fedler, 1999; Marchetti & Ransley, 2005).

The underlying philosophy of this neutral approach is interpretive self-sufficiency: this is the idea that law contains an inner rationality that makes it logical and self-justifying (Fedler, 1999). Hence, in the example cited above, the judicial officer would apply the same set of rules to the accused in this case as he or she would to a gang-related murder, or murder in the context of an armed robbery.

In this neutral or a-contextual approach, law is defined as being separate from, and unconcerned with, social context. It is based on an understanding of law as a formal system in which legal questions should be answered from judicial opinions and not from the customs and procedures of social life. The notions of objectivity, impartiality, consistency, certainty and predictability underlie this understanding of law (Davis, 2002; Fedler, 1999; Simpson & Charlseworth, 1995).

The a-contextual approach has become controversial and many academics and modern legal theorists have come to accept that law is essentially context-specific (Martin, 1993). Similarly, feminist theorists and others argue that the a-contextual approach to law (and the concept of impartiality) ignores the issues of male dominance and the institutionalisation of sexism in legal systems. They also argue that the concept of impartiality denies the role of affect and attitude in the decision-making processes of judicial officers (Martin).

Unlike the proponents of the a-contextual approach to law, modern theorists treat law as the practice of making choices between competing interests and endorse a legal philosophy that maintains that law is grounded in political systems and reflects political tendencies and practices (Martin, 1993). The validity of any legal system

rests on the extent to which its set of laws are judged to be reasonable and just by those subjected to it (Heyns, 1990). Critics of the a-contextual approach to law, such as Nedelsky (1997), have questioned the reasonableness of the traditional legal principles of impartiality and universality which underlie this approach.

Challenges to the concept of impartiality and universality

There is a long history of feminist critiques of conventional legal concepts like impartiality. Impartiality has been shown to lead to the denial of difference, where difference or diversity is a key variable in the legal process or proceedings (Young, 1987; Nedelsky, 1997).

Impartiality is related to the legal concept of universality. The definition of an impartial judge is one who handles all situations according to a standard set of rules and regulations (Nedelsky, 1997). One of the problems, however, in aspiring to and applying these principles of impartiality and universality is that by definition they assume some single core identity common to all (Nedelsky). This core identity is a necessary condition for the reasonable, lawful and fair application of these principles (Nedelsky).

The principle of universality in the rule of law can only apply in situations where there is something universally shared by those governed by the law (Nedelsky, 1997). The principle presupposes the uniformity of subjects' characteristics and contexts and assumes that any peculiarities in characteristic or context do not impede impartial reason (Nedelsky).

The rule of law and legal reasoning is considered impartial when it is not influenced or corrupted by extraneous concerns and universal rules are applied to universally accepted standards of actions or behaviours (Nedelsky, 1997). The concept of impartiality and universality are contextualised in traditional structures of legal rights which assume that individuals can be treated as transposable entities (Nedelsky). A problem arises when rational decision-making is required in situations where there is

no uniformity in subject characteristics or context and where there is no universality to establish the basis for impartial decision-making (Nedelsky).

The “sameness” that is the basis for impartiality and universality is most often defined by White middle-class men and represents their interests (McKinnon, 1987). Arendt (cited in Nedelsky, 1997, p. 107) posits that impartiality is about understanding different perspectives (this she labels, achieving an *enlargement of mind*). As opposed to treating everyone the same, impartiality is developed through acknowledging subjectivity and difference. Impartiality according to this understanding, therefore, does not imply neutrality in the traditional sense. It does not mean that all groups are treated the same or no group receives differential treatment. Impartiality refers to instances where difference is acknowledged and where it informs substantive judgement. Similarly the concept of universalism can be understood from a social context perspective as referring to a “...universal moral claim of equal moral worth” (Nedelsky, 1997, p.114), instead of referring to an innate uniformity of subject characteristics and contexts.

The problems associated with the traditional legal principles of impartiality and universality represents some of the limitations in the application of the a-contextual approach to law. The traditional a-contextual approach has received criticism internationally, with specific criticisms emanating from feminist legal theory and critical race theory of modern jurisprudence (Crenshaw, 1990; Delgado, 1995; Fedler & Olkers, 2001; Minow, 1990). These critics argue that law does not emerge from a social void, rather it is located in society and mirrors its customs and traditions (Kennedy, 1992). In societies, for example, where racial bias, prejudice and discrimination are the norm (as was the case in South Africa under apartheid), the law will reflect those norms (Kennedy). Social context education has been proposed as a means of combating the challenges presented by the a-contextual approach to law.

One of the main problems associated with the a-contextual approach to law is that it obscures the reality of prejudice in judicial decision-making. There is a body of empirical evidence to substantiate claims of systematic discrimination based on race and gender (and other variables) in judicial decision-making and sentencing.

The Problem of Prejudice in Judicial Decision-making

Everyone interprets events from their worldview/paradigm/cognitive map (Cohen, Fink, Gadon & Willits, 2001). These interpretations help us make sense of the world and of new events we experience. Yet, they can also make us suspicious of people who appear different, or judgmental of people who experience the world differently and have dissimilar values and beliefs (Cohen et al.).

A general assertion by judicial officers is that they are unbiased and able to act objectively (Karth, 2004). Yet, numerous studies have refuted this assertion (Albonetti, 1991; Alvarez & Bachman, 1996; Bemmels, 1988; Budlender, 1994; Bushway & Piehl, 2001; Coe, 1980; Cunneen, 1992; Currin, 1992; Daly, 1987, 1989; Davis, Haire & Songer, 1993; Dissel & Kollapen, 2002; Fitzmaurice & Pease, 1986; Gibson, 1978; Gruhl, Spohn & Welch, 1982; Hagan & Albonetti, 1982; Kgalema, & Gready, 2000; Kapardis, 1997; Kleck, 1981; Kramer & Ulmer, 1996; Mahoney, 1996; Martins, 1993; Massie, Johnson & Gubala, 2002; Matravers & Tonry, 2003; Miethe & Moore, 1986; O'Shane, 1980; Pascoe, 1996; Radalet, 1981; Sampson & Lauritsen, 1997; Schanzenbach, 2004; Scott, 1988; Songer, Davis & Haire, 1994; Songer & Crews-Meyer, 2000; Spohn, 2000; Spohn & Holleran, 2000; Spohn, Gruhl & Welch, 1987; Steffensmeier, Ulmer & Kramer, 1998; Tonry, 1996; Weitzer, 1996; Welch, Combs & Gruhl, 1988; Wonders, 1996; Zatz, 1987).

Judicial officers are as susceptible as anyone to judging events from their own subjective experiences. Judicial officers bring their principles, belief systems, prejudices and biases to the bench. They cannot strip themselves automatically of their social conditioning when working and this can result in various biases in their judicial decision-making especially when they encounter unfamiliar situations or events (Kgalema & Gready, 2000).

The basic foundation of law in most modern democratic societies is that it is impartial, that people are treated equally before the law and that any prejudice and discrimination are absent from judicial decision-making. While these assumptions

have been demonstrated to be false in countries like America and Canada, they are even less valid in post-apartheid South Africa. In the latter case, racial and gender bias and prejudice were a fundamental component of the administration of law and of the law itself. The following sections present some examples of empirical work where evidence is presented that refutes the claims of many judicial systems that they are fair for all.

Sentencing as a Non-exact Science

There is some empirical evidence to substantiate the fact that extra-legal factors such as the defendant's race and gender can impact on decision-making throughout the judicial process and specifically at sentencing (Coe, 1980; Cunneen, 1992; Fitzmaurice & Pease, 1986; Gibson, 1978; Kapardis, 1997; Kleck, 1981; O'Shane, 1980; Pascoe, 1996; Radalet, 1981; Schanzenbach, 2004; Spohn, Gruhl & Welch, 1987; Weitzer, 1996; Welch, Combs & Gruhl, 1988). The evidence is based on predominately North American studies (Alvarez & Bachman, 1996; Bright, 2006; Fukurai, 2003; Kaufman-Osborn, 2006; Ogletree & Sarat, 2006; Radelet & Pierce, 2006), Australian (Mansell, 2001) and British (Matravers & Tonry, 2003; Sommers, 2007), as this kind of research has, for the most part, taken place in these contexts. While the evidence is not irrefutable, it does highlight certain patterns of discrimination or inconsistencies in sentencing based on race.

Gender

The issue of gender prejudice and the law has been highlighted by feminist theorists and others who postulate that legal systems are often biased against women in favour of men and that sexism is apparent in judicial systems (Bemmels, 1988; Kapardis, 1997; Resnik, 1996; Riger, Foster-Fishman, Nelson-Kuna & Curran, 1995; Rapaport, 1991; Wikler, 1980, 1989, 1993).

Numerous feminist theorists and researchers have attempted to demonstrate the implicit sexism in law and how this often disadvantages women in legal systems (Finley, 1989; McKinnon, 1987; Menkel-Meadow, 1990; Minow, 1987; Nedelsky,

1997; Reaume, 1996; Young, 1987; West, 1988). They present convincing arguments and evidence that suggest that ignoring differences between men and women leads to unequal and unfair treatment by the law.

Some theorists argue that in relation to sentencing, sexism serves to maintain conventional gender roles and uphold paternalistic views of the sacrosanct nature of the traditional family (Daly, 1987). Similarly they suggest that judicial systems reflect stereotypical ideas about the roles of men and women, men being seen as the primary earner and head of the household and women regarded as dependants and primary care-givers. These stereotypes can manifest in gender discrimination in legal systems (Martin, Reynolds & Keith, 2002). To substantiate this argument, one should note that it is explicitly stated that a defendant's gender is a relevant factor in sentencing in statutes and common law in the USA, UK and Australia (Gillies, 1993; Odubekum, 1992).

A number of studies have shown that generally women receive lighter sentences than men (Curran, 1983; Daly, 1987, 1989; Frazier, Bock & Henretta, 1983; Ghali & Chesney-Lind, 1986; Gruhl & Welch, 1984; Kapardis, 1997; Nagel & Hagan, 1983; Parisi, 1982; Spohn, Gruhl & Welch, 1987) showing that the defendant's gender is a factor in many judicial and criminal systems (Daly, 1987).

Race

There is evidence from studies conducted in the USA, UK, Canada, Australia and New Zealand that Black people are treated differently to White people when it comes to sentencing (Kapardis, 1997; Marchetti & Ransley, 2005).

One of the most serious consequences of this differential treatment in sentencing is the varied application of the death penalty along racial lines. Obviously this only applies to countries, like the USA, that have the death penalty attached to certain crimes. Between 1930 and 1984 Black Americans were executed for murder and rape five to nine times more than White Americans (Gibson, 1978; Kapardis, 1997).

While this, in and of itself, does not necessarily indicate racial discrimination in sentencing, the systematic differentiation is cause for concern.

A number of reviews of studies on racial discrimination in sentencing and specifically the application of the death penalty concluded that racial discrimination does occur (Albonetti, 1991; Kapardis, 1997; Spohn, 2000).

The Judge

Another extra-legal factor impacting on sentencing concerns the person doing the sentencing, namely, the judge. Some research has shown that lawyers regularly engage in a practice referred to as magistrate/judge “shopping” to secure a presiding officer who is sympathetic to their case (Ericson & Baranek, as cited in Kapardis, 1997).

There is some evidence to substantiate the belief that the identity of the judicial officer is a determinant of the sentence (Cunneen, 1992; Davis, 2002; Kapradis, 1997; Marchetti & Ransley, 2005; Massie, Johnson & Gubala, 2002; McRae, Nettheim, Beacroft & MacNamara, 2003; Razack, 1998). This is particularly relevant when attempting to understand the impact of personally held prejudices on judicial decision-making, leading key stakeholders to promote and develop judicial education programmes like social context training.

Remedial action through social context education for judicial officers

The primary objective of social context training of the judiciary is the eradication of unfair discrimination in the administration of justice and judicial decision-making. The definition, form and content of social context education differ across settings. For example, in South Africa social context education for magistrates has been offered by external service providers on a voluntary basis while in Canada it has been included as an integral component of mainstream judicial education.

In South Africa the approach to training has been based on the belief that developing an understanding of one's own prejudices can lead to a shift in prejudicial thinking. The process involves engaging in a reflexive exercise of identifying how one sees the world and how one interprets behaviour and events. The training is designed to expose damaging assumptions about groups in society that may manifest (often inadvertently) in prejudicial judicial decision-making (Murray, 2003). In the Canadian context the training has tended to emphasis both skills and awareness and focused more specifically on the law and legal analysis.

There is increasing evidence to substantiate the claim that rational decision-making at each level of the legal process (i.e. arrest, prosecution, determining guilt, and sentencing) is underscored by an affective response (Nedelsky, 1997). Social context education attempts to help judicial officers understand their affective responses and how these responses can influence their decision-making processes. Denying the influence of attitude or affect in legal decision-making prohibits any opportunity to reflect, assess and educate on the issue (Young, 1987).

Judicial officers' vulnerability to partiality and the inevitability of subjectivity underscores the need for training aimed at minimising unlawful discrimination in the court setting and in the administration of justice (Karth, 2004). Social context training attempts to locate the court in its social context and exposes judicial officers to all aspects of the communities they serve. Its overarching aim is to foster an understanding of difference to counteract unfair and unequal treatment in the legal system.

Learning the law is different from understanding social context. For example one cannot be taught to be sensitive to issues of class, race or gender as one is taught the intricacies of criminal law. Social context training involves acknowledging and confronting preconceived ideas about people who differ from oneself.

There is sufficient research to suggest that in many contexts around the world certain demographic characteristics have influenced judicial decision-making. The literature cited in this chapter portrays concerns around blanket claims by judiciaries about their fairness and equal treatment of all citizens. In countries like Canada,

America and South Africa, judicial education and training has been introduced as an intervention to tackle discriminatory practices amongst judicial officers. Chapter Three compares judicial education in South Africa against global trends and best practice in the field.

CHAPTER THREE

Judicial Education in South Africa compared against Global Trends and Best Practice

There has been an exponential increase in the development of judicial education programmes throughout the world over the last two decades. According to Sallman (1993, p.253), “The increase in judicial education might well be described without exaggeration as an explosion of activity in the field in the last decade.”

Despite the proliferation of judicial education programmes, there is a paucity of literature on this topic. While there has been some literature published on the characteristics of judges as learners (Armytage, 1995, 2004; Claxton, 1992; Houle, 1980) and the reasons why judges participate in education programmes (Caitlin, 1982), the results of a thorough review of the literature indicate that the available documentation in this area focuses predominantly on descriptions of particular programmes in specific settings. This chapter, therefore, presents a review of the limited available literature on judicial education. It reports on global trends in generic judicial education programmes and best practice principles associated with social context training for judicial officers. In order to establish the context for this evaluation, judicial education in South Africa in general and the LRG’s social context training programme specifically are described and compared with these global trends and best practice principles.

Brief background to the development of judicial education programmes

Prior to the first formalised judicial education programme which was introduced in the 1960s, judicial training was *ad hoc*, and informal. In the developed world, judicial

education was first institutionalised in 1958 with the *Ecole Nationale de la Magistrature* in France, followed by the National Judicial College in the USA in 1963. The Canadian Judicial Centre offered its first training workshop in 1972 and the Canadian National Judicial Institute was formed in 1988. The Australian Institute for Judicial Administration was formed in 1975, while the Commonwealth Judicial Education Institute was established in 1994, around the same time that the Law, Race and Gender Unit was formed in South Africa (Armytage, 2004).

Since the early 1990s there has been growing recognition of the need for judicial education in both developed and developing countries (Ba, 2004). This need is based on the fact that independent and resilient judicial systems are part of the foundation of democratic states in that they are responsible for keeping government from acting outside the law (Ba). Independent judicial systems are also considered an integral component of a non-partisan state because of their ability to deliver a fair and equitable system of justice for all citizens (McLachlin, 2004).

There has also been a proliferation of donor-funded projects aimed at establishing and developing judicial education programmes worldwide. These projects often fall under the ambit of broader strategic judicial reform interventions aimed at supporting good governance and promoting the rule of law (Armytage, 1995, 1996, 2004; Messick, 1999; World Bank, 2006). This proliferation is evidenced in the World Bank's approximation that it is currently financing in the region of 600 projects in the area of legal and judicial reform in countries such as Albania, Argentina, Armenia, China, Bangladesh, Croatia, Colombia, El Salvador, Guatemala, Peru, Mexico, Mongolia, Morocco, Russian Federation, Sri Lanka, Zambia, Cambodia, Togo and the Philippines.

The increase in judicial education programmes over the past fifty years has involved the investment of billions of dollars (Armytage, 1995, 1996; Ericksen, 2006; Sallman, 1993). If these interventions prove to contribute meaningfully to good governance practices, help entrench rights-based cultures and adherence to the rule of law, it is likely that the investments will increase substantially in the future.

In the context of emerging democracies or transition countries (such as Bosnia, Serbia-Montenegro, Macedonia, South Africa, Peru, and Brazil), judicial education is directly associated with judicial reform initiatives. These initiatives aim to aid judges in meeting the challenges of their transforming societies (Armytage, 1995, 2004; Dawson & Herman, 2006; Dung, 2003; Herrera, 2007; Maclean, 1996; Moorgate et al., 2000).

In politically transforming societies, these programmes have emerged as the central vehicle for judges to stay abreast with shifting societal mores and remain in touch with the range of citizens that appear before them. Judicial education is regarded, in many countries, as a key way of promoting confidence in and respect for the rule of law (Dung, 2003, Herrera, 2007; Maclean, 1996; Moorgat et al, 2000).

Judicial education is generally associated with the promotion of judicial accountability and independence. There is increasing global recognition that judicial education programmes contribute to improvements in judicial system performance, while at the same time enhancing perceptions of judicial legitimacy (Herman & Dawson, 2006; Moorgat, Punsalan & Pilar, 2000; Stewart, 2001). Judicial education programmes are intended to ensure judicial independence and social accountability (Armytage, 2004; Herrera, 2007; Stewart, 2001). The general aim of these programmes is to enhance service delivery by the courts to the communities they service (Armytage, 2004; McLachlin, 2004). Service delivery in this context extends beyond the efficiency of the judicial institution to the dispensing of fair and equal justice in all cases to all parties.

Courts must be perceived as fair in order to retain their credibility. Judicial education programmes are designed to help the judiciary maintain their independence and remain responsive and accountable. The programmes attempt to meet these dual demands by:

- Ensuring professionalism amongst judicial officers through continuing professional development training
- Meeting the institutional demands for continuous performance improvement.

Judicial education programmes are generally developed in response to the following three factors:

- The appointment of new judges to the bench and the need to ensure a speedy transition from legal professional to judicial officer
- Continuing professional education
- Ongoing personal development (Armytage, 2004; McLachlin, 2004; Oxner, 2005).

Armytage's (1995, 2004) Model of Global Trends in Judicial Education

The nature, structure, focus and authority for judicial education differ according to context and judicial system (Claxton, 1992). A model for judicial education needs to be flexible to accommodate the vagaries of each nation's specific socioeconomic and historical context, its constitution and legal/judicial system (Armytage, 2004).

Armytage (1995, 2004) presents a model of judicial training and education based on an analysis of judicial development practices from a variety of different countries (for example, Australia, Britain, Canada, Pakistan, Mongolia). He argues that judicial education is aimed at improving judicial competence. It is also aimed at improving the functioning of the courts. Research on judges as learners indicates that the professional cohort in general is,

Characterised as being rigorously autonomous, having an intensely short-term problem-orientation, and being exceptionally motivated to pursue competence for its own sake rather than for promotion or material gain; those appointed within a merit system, may also generally represent a professional elite possessing extraordinary levels of pre-existing professional competence (Armytage, 2004, p.2).

These characteristics need to be considered when attempting to design a judicial education programme.

Armytage's (1995, 1996) model is premised on two key criteria: judicial education must be **judge-led** and **court-owned** (Armytage, 1995, 2004; Houle, 1980). These programmes must be judge-led to ensure the preservation of the independence of the judiciary. The programmes cannot be prescribed by the executive arm of the government as this would conflict with the fundamental principles surrounding the separation of powers and the independence of the judiciary in democratic political systems (Armytage, 1995, 2004).

Figure 2 demonstrates the general principles for practice and global trends that are assumed to contribute to the development of a meaningful judicial educational intervention. These principles are based directly on the themes that emerged from Armytage's (1993, 1995, 1996, 2004) analysis of judicial education programmes across a variety of settings (i.e. Canada, Australia, USA, France).

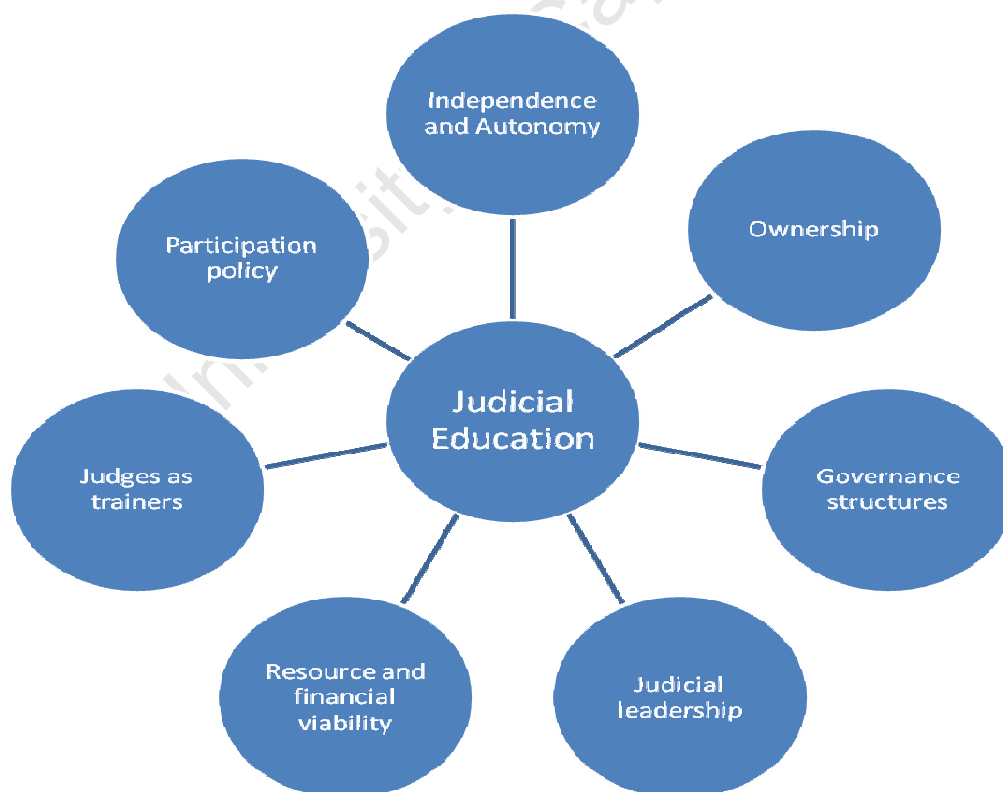


Figure 2. Global trends in judicial education

Independence and autonomy are vital to judicial education institutions. Armytage (2004) argues that the judicial training institution should be independent from the executive branch of the government and suggests that financial autonomy is required to ensure this independence.

Linked to independence is the issue of ownership. The leadership of the training institution should be made up of judicial officers and the judiciary must be responsible for administration and implementation of the training (Armytage, 2004). Governance structures should also reflect the autonomy of the training institution and should include representation from the broader community and subject area specialists.

General consensus holds that judges prefer to be trained by other judges (Armytage, 1995; Dawson, 2004; Houle, 1980). A key trend in judicial education is the development of skilled judge-trainers who can deliver educational interventions to their peers.

Another key trend is the incorporation of a participation policy. Approaches to programme participation are generally dependent on context. Participation can be encouraged through sensitising judicial officers to the importance and value of training. Finding ways to minimise resistance and attain commitment to judicial education, appears to be critical to its success and sustainability (Armytage, 2004).

Table 1 compares the state of judicial training in South Africa against three other cases, namely the USA, Canada and Australia in relation to the various trends in the model. These cases were selected because they represent countries with well established systems of judicial education and for practical reasons as these cases are documented and described more comprehensively than many other cases (Armytage, 1993, 1995, 1996, 2004; Caitlin, 1982, 1986; Dawson, 2004; Ericksen, 2006; Fraser, 1995; Federal Court of Appeal, 1993; Gleeson, 1999; Holland, 1993; Houle, 1980; Hudzik, 1993; JERITT, 2006; Judicial Education in Australia, 2006; Kennedy, 1987; Kenny, 2003; Li, 1995; Murray, 1986; Nicholson, 1993; NJCA Programs 2006, 2007, 2006; NJEP, 2006; NJI, 2006; Oxner, 1999; Pickett, 1997; Richard, 2004; Riches, 1989, 1990; Sallman, 1988, 1992, 1993; Shetreet, 1987; The

National Judicial College, 2003; The National Judicial Institute, 2001-2002; The National Judicial Institute, 2006; The National Judicial Institute, n.d; Wikler, 1987). A key source of data for this comparison were the papers from the 2004 Conference and Social Context Symposium held in Ottawa under the auspices of the International Organization of Judicial Training and hosted by the National Judicial Institute.

Judicial education in South Africa has traditionally been delivered by the LRG and Justice College; hence both institutions are included in this analysis to demonstrate the full range of educational interventions available in this context. Justice College is the official training provider of the Department of Justice and Constitutional Development and is state funded. Its primary responsibility is vocational training as opposed to continuing professional development. Justice College is in charge of training newly appointed magistrates who receive compulsory training by the college to prepare them for their role on the bench.

Table 1

South African Judicial Education Compared Against Three Cases

Comparison between four countries in relation to global trends in judicial education					
	<u>USA</u>	<u>Canada</u>	<u>Australia</u>	<u>South Africa</u> / \	
				LRG	Justice College
Independence and autonomy	✓	✓	✓	✓	✓
Judicial ownership and governance	✓	✓	✓		
Judicial leadership & support for continuing education and social inquiry	✓	✓	✓		
Resource and financial viability	✓	✓	✓		✓
Participation policy	✓	✓	✓	✓	✓
Judges as trainers	✓	✓	✓		

It is clear from the table that the current state of judicial education in South Africa is not aligned with global trends. A comprehensive comparative analysis of judicial training in South Africa is presented later in this chapter. This comparative analysis covers both the LRG's training and that of South Africa's Justice College. Both training institutions are included in this analysis in order to explore and present the state of judicial training in South Africa. The evaluation presented in the rest of this document focuses solely on the LRG's social context programme.

Goodman's best practice framework for social context education

The available literature on social context education for judicial officers is scarce. The conclusion of a systematic review of the literature in this area indicates that the most

developed and well-known social context programme is that of the Canadians. Their National Judicial Institute launched the Social Context Education Project (SCEP) in 1996. The impetus for attention to social context in Canada was a direct result of public pressure for the judiciary to become more representative of the population it serves and for the justice system to acknowledge and respond to concerns about systematic discrimination in the system (Dawson, 2004).

SCEP'S definition of social context education was much broader than sensitivity or awareness training on diversity issues (Dawson, 2004). The scope of the project involved:

- Educating judges about the nature of diversity and the sociology of disadvantage
- Facilitating opportunities for judges to investigate their own assumptions about diverse groups in society and reflect on how these assumptions intermingle with judicial process
- Studying empirical research and community experience to improve judicial reasoning in the interpretation and application of evidence and legal principles with a specific focus on how judges ascertain the credibility of people who appear in their courts and the recognition of issues related to social context
- Developing jurisprudential and analytical tools for judges to question the foundations of legal rules to assess whether they correspond with social realities and promote the constitutional imperative of equality (Dawson, 2004).

There are a number of best practices and principles emanating from the SCEP. These appear to be important when developing social context training programmes for judicial officers (Dawson, 2004). These principles are present to varying degrees in a variety of settings (such as in judicial education programmes in Australia and the USA), but are found most comprehensively (and are integrative) in the Canadian judicial education system (Ethical Principles for Judges, 2004).

A possible way of conceptualising best practices in social context education is organising these practices in a programme evaluation framework presented in Figure 3. This framework is based on the work of a variety of programme evaluation

theorists (such as Chen, 2005; Fetterman, 1996; Rossi, Lipsey & Freeman, 2004; Patton, 1997, 2002; Shadish, Cook & Leviton, 1995; Weiss, 1998). The evaluator has attempted to organise these best practice principles into this framework in order to design a best practice model against which the LRG's social context training programme can be assessed.

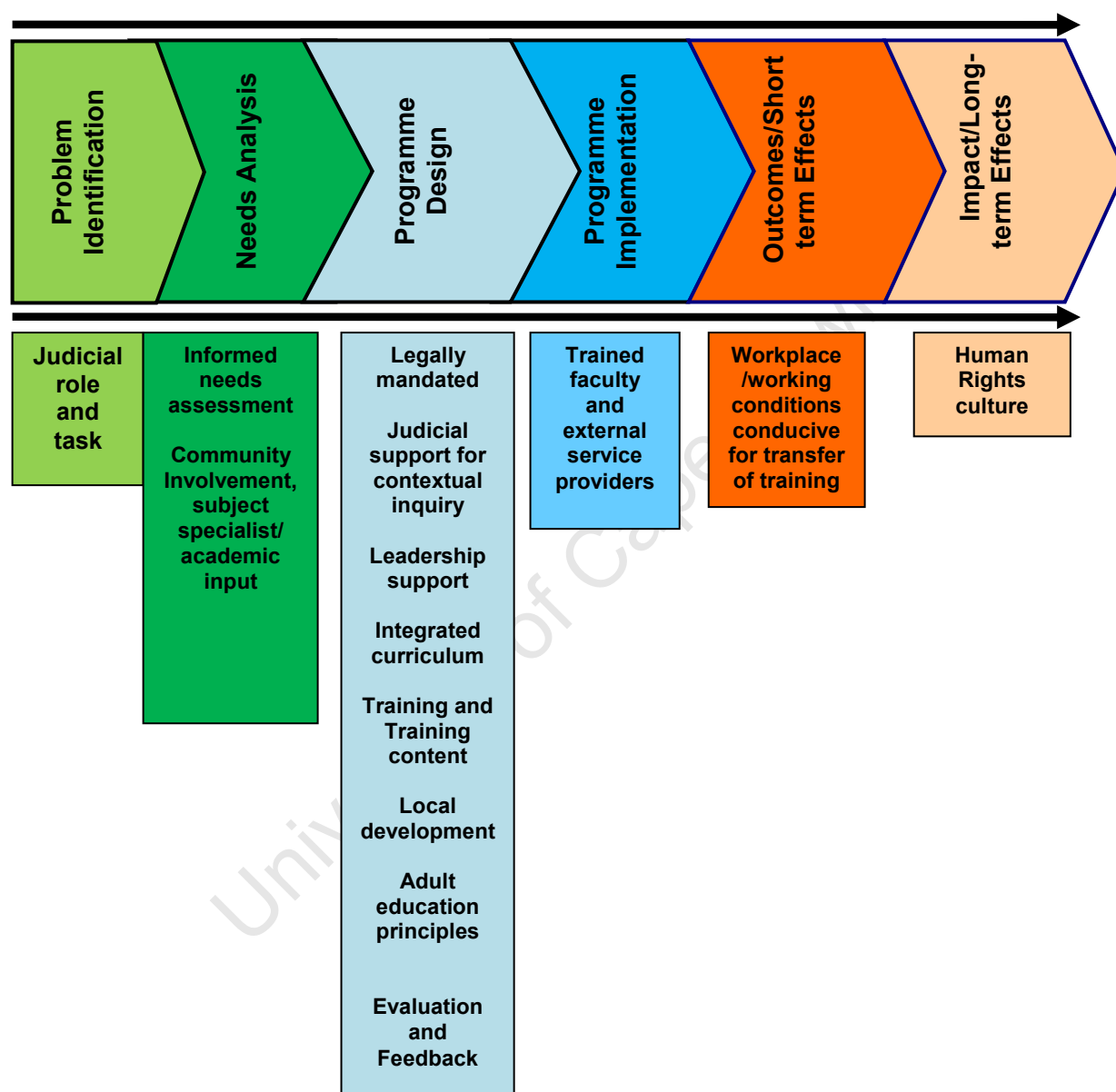


Figure 3. Best practice in social context education according to programme evaluation framework

Problem Identification

It seems to be best practice to focus on the role and task of the judiciary in social context programmes for judicial officers. Programmes should be designed in response to the realities of the judicial role in modern societies (Oxner, 1999).

Needs Analysis

Authors suggest that judicial education be informed by needs assessments and that input from relevant communities and academic experts should shape initial decisions regarding the content of the training programmes. Education programmes must be formulated on well-established judicial learning needs and these must be reflected in programme content, design and delivery (Armytage, 2004, Dawson, 2004).

The content of the programmes should reflect some form of community involvement to ensure that diverse communities' needs are reflected in the programme. While the programme must be judge-led, it should also include the involvement of academics and subject specialists for content concerns (Armytage, 2004).

Programme Design

The need for social context education for judicial officers should be supported by legal requirements that judges behave in a manner that assures equality before the law (NJI 20 Principles, 2004). In order for social context awareness to be understood as more than just an essential component of an inclusive judiciary, it should be mandated by the law.

Best practice examples suggest that for social context education to be legitimated, it is important that senior members of the judiciary publicly acknowledge the role that social context issues play in judicial decision-making (NJI 20 Principles, 2004).

Lessons from more established democracies which contain longstanding social context education programmes indicate that top leadership support and involvement

for this form of education is critical to its success. The involvement of senior judges helps develop a climate in which social context issues are regarded as priority and where the training is promoted as credible and valuable (NJI 20 Principles, 2004).

Armytage (1996, 2004) suggests that social context issues should be integrated into the curriculum in all aspects of judicial education. The achievement of this integration requires attention to organisational structures and support; curriculum planning and topic selection; the identification of learning objectives; the process of programme development and the choice of faculty and resources in support of programme development and delivery.

Developing local programmes that are responsive to specific local concerns appears to be another important best practice (Armytage, 2004). These programmes should incorporate adult education principles in curriculum design and delivery (Armytage, 2004; Houle, 1980).

The final design area in the framework is the area of programme and training evaluation. This area is explored in some detail as it relates directly to the purpose of this evaluation and its contribution to this under-researched field.

There does not appear to be a definitive or dominant best practice model for evaluating judicial education programmes. Some of the literature in this area refers to Kirkpatrick's (1998) four levels of learning model (Huzdik, 1991; Langhorne, 2004) but for the most part, these evaluations tend to be restricted to first and/or second level evaluations (i.e. reaction and learning). There appears to be a challenge in this area to develop evaluation models and indicators that address the higher levels of learning.

There have been some attempts at developing robust approaches to evaluation of judicial education programmes. Reflecting on attempts at evaluation in Senegal, Ba (2004) proposed the following evaluation standards which he maintains are transportable regardless of the context and content of the judicial education programme:

Table 2

Ba's (2004) Suggested Evaluation Standards

Evaluation standards	Explanation
Pertinence	Evaluations must assess whether the training or programme objectives match a real need
Efficiency	Quantitative and qualitative assessments of the implementation of the training or programme
Efficacy	Assessment of allocation and use of resources
Impact	Evaluation of benefits received by target population and community that the population serves
Durability	Assessment of the transfer of learning and sustainability of new skills and behaviours

These standards map onto conventional programme evaluation standards and processes (Ba, 2004; Boulmetis & Dutwin, 2005; Farrington, 2003; Rossi et al., 2004; Stufflebeam, 1994). They also overlap with the World Bank's principles for independent and self-evaluation such as usefulness, credibility, transparency and independence (Independent Evaluation Group, World Bank, 2006).

Langhorne's (2004) 360-degree evaluation model is one example of a documented evaluation process for judicial education programmes. A best practice incorporated in this model is the development of the process of evaluation during the curriculum design phase as opposed to retrospectively (Rossi et al., 2004). In this model presented in Figure 4, all the different steps are inter-related.

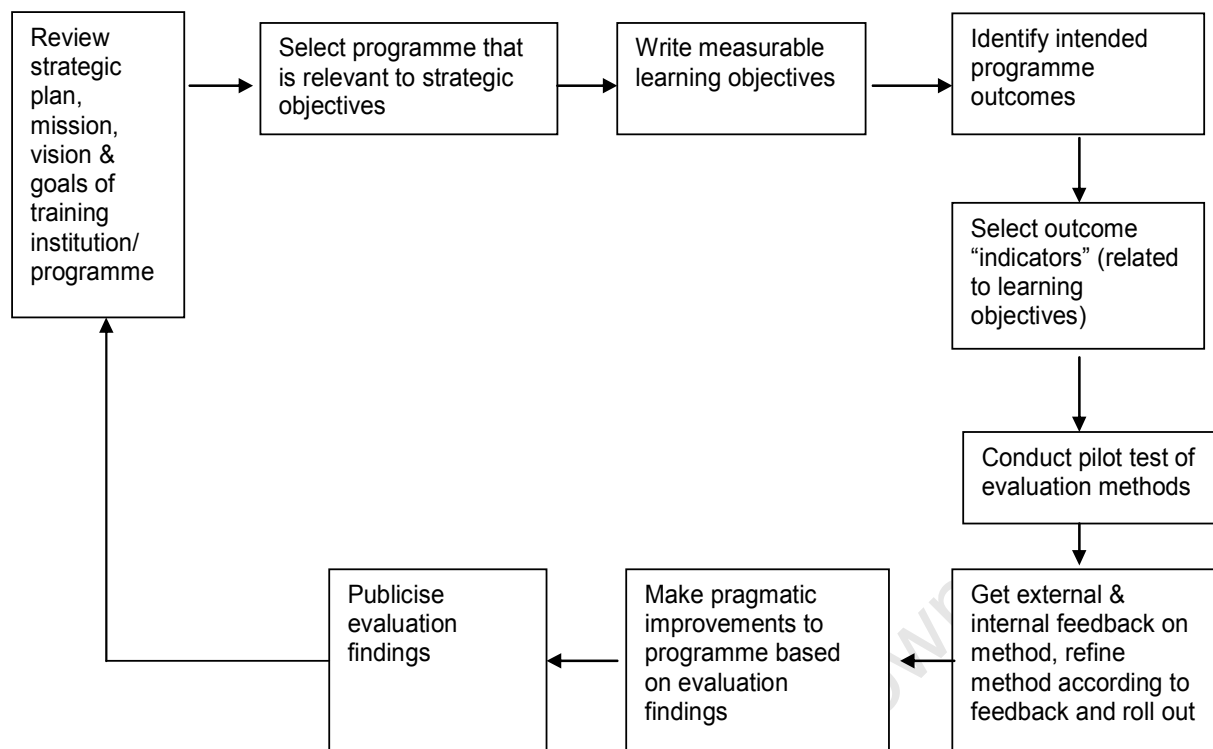


Figure 4. Langhorne's (2004) 360-degree evaluation model

Langhorne's model can be understood as an attempt at aligning evaluation practices with programme design and implementation. It offers an ongoing reflexive process for evaluating the programme from its conception to completion. The model promotes a formative evaluation approach where the evaluation process dovetails the development and implementation phases of the programme.

In order to improve evaluation practices in this field, evaluators need to support programme staff in extracting clear evaluation criteria and performance measures. These criteria will be programme-specific but there are also some generic programme objectives in this field. The overarching objectives of most judicial education programmes are firstly to educate, develop and train judicial officers so that they are perceived as impartial, competent, efficient and effective and secondly, to foster community confidence in judicial systems (Oxner, 2004).

Documentation on the evaluation and monitoring of legal reform projects from the World Bank (World Bank, 2006), emphasises the importance of developing two categories of performance measures for judicial education programmes: firstly, in-

house implementation measures that monitor the internal systems, structures and processes post-intervention and secondly, external performance indicators that track the outcomes and impact of the intervention for the trainees and the broader community.

While the World Bank is widely acknowledged as having robust monitoring and evaluation standards for their programmes, they acknowledge the difficulties of establishing performance indicators and measures in this area:

More and better performance indicators are desperately needed in the legal reform field. Legal and judicial reform is an extremely complicated endeavour, and it is hard to imagine that it could be successful without valid, reliable data on how the legal system works and how well reform programs are achieving their goals (World Bank, 2006, p.4).

In their guidelines on evaluation for legal reform programmes, they recommend that practical considerations drive the evaluation process. While acknowledging the preference for quantitative data which supports causal inferences, there is general consensus that pre-post quasi-experimental designs are often not feasible when evaluating most judicial reform programmes.

The main aim of evaluating judicial education programmes is to establish whether learning has taken place; whether there has been some kind of return-on-investment, whether the community is satisfied with judicial performance and whether the programmes are perceived as valuable by judicial officers themselves (Oxner, 2004).

Programme Implementation

Effective programme delivery requires trained faculty and external service providers (Dawson, 2004). Successful implementation is dependent on dedicated skilled staff and planning committees that are constantly reviewing substantive social context

concerns, developing facilitation and programme design skills and forging links with the broader community (Dawson).

Outcomes/Short-term Effects

The definition of clear and measurable programme outcomes is best practice in the development of any training programme. Programme outcomes that have been achieved “are the benefits for participants during or after their involvement with a program.” (Hatry, van Houten, Plantz & Taylor, 1996, p.XV). The nature of a desired programme outcome relates directly to the programme’s goals and objectives and may include changes in knowledge, skills, attitudes, values, behaviour, life condition and/or status of the recipients (Hatry, et al., 1996; Rossi, et al., 2004). The evaluation question driving these kinds of assessments investigates the extent to which changes have occurred as a result of the programme or intervention.

By definition “... outcomes are observed characteristics of the target population or social condition...” (Rossi et al., 2004, p.204). There are a number of dimensions to a programme outcome, namely level, change and programme effect. Assessing outcomes according to these dimensions allows evaluators to make fine distinctions and draw conclusions about the extent and nature of the change that has occurred.

The difficulties associated with evaluating the outcomes of judicial education programmes are related to factors inherent in their programme design. When one is attempting to design an outcomes evaluation, one starts by systematically identifying measurable outcomes (Chen, 2005; Kettner, Moroney & Martin, 1999; Rossi et al., 2004). The clearer the desired and intended programme outcomes are, the simpler it is to define outcome measures. One of the problems associated with evaluating judicial education programmes is the lack of clearly defined, easily observable and measurable outcomes (Hammergren 2002). Judicial education programmes generally attempt to bring about “...elusively definable ‘outcomes’ such as improved access to justice, greater public confidence in the courts, elimination of cultural bias in judges’ decision-making processes. These noble outcomes are hardly analogous to manufacturers’ production line ‘widgets’” (Langhorne, 2004, p.5). Unlike

production line widgets that can be easily quantified, the primary outcomes of judicial education programmes are generally abstract and “fuzzy”. It is this vagueness that confounds attempts at outcomes evaluations. Dakolias’ (2005) review of methods of monitoring and evaluating rule of law interventions concludes that the major problem in evaluating programmes in this field was related to difficulties in defining success measures. This difficulty was directly associated with vague or unspecified programme objectives. Dakolias cites the USAID as an example of a large donor organisation who has supported these kinds of programmes for over 20 years, and is still struggling to find reliable evaluation techniques and success indicators. Evaluations emanating from USAID in this field have been, for the most part, descriptive case study analyses.

A best practice in this area would be to ensure that the content of the social context training programme be aligned to the actual work of judicial officers. This alignment could facilitate the attainment of short-term effects by increasing the likelihood of the transfer of training to the workplace. A consultative relationship between the training provider and the judicial management could also enhance transfer possibilities. Judicial management is partly responsible for the working conditions of judicial officers, hence they could impede or promote opportunities for training transfer through their management practices.

Impact/Long-term Effects

Impact evaluations attempt to assess the long-term effects of a given programme (Rossi et al., 2004). The results of impact evaluations permit the assessment of the relative value of a given programme to a far greater extent than other levels of evaluation.

The area of impact evaluation in the context of judicial education programmes is particularly challenging. Even in the best practice example of Canada, there is very little performance evaluation linked to training objectives and almost no impact assessments of judicial education (Dawson, 2004). The difficulties in this context relate, somewhat, to concerns about judicial independence. Evaluation is often

perceived as being associated with attempts to control or direct judges' behaviour (Dawson) and hence threatens judicial autonomy and independence.

The difficulties of impact evaluation also relate to the way in which the objectives of the programmes are defined. In many cases there is a lack of clearly articulated behaviour-based outcomes at the onset of the programme. In the area of social context education, specifically, much of the training focuses on intangible or complex abstract concepts or affective states as opposed to the development of performance-based indicators.

The long-term impact of social context training would involve the evolution of a human rights culture within the judiciary and the perpetuation of a national culture of human rights promoted and maintained by the courts. The impact would be reflected in an independent, autonomous judiciary that is perceived as fair by all citizens.

Judicial training in South Africa compared against aspects of the best practice model

In this section the judicial training offered by the LRG and Justice College is compared against the best practice framework. As illustrated in Table 3, the nature of social context training for judicial officers in South Africa does not compare well with these best practice principles.

Table 3

South Africa in Relation to Best Practice Principles

Principles informing best practices in social context training		
	<u>South Africa</u>	
	LRG	Justice College
Problem Identification:		
Focus on judicial role and task	✓	✓
Needs Analysis:		
Informed by needs assessment		
Input from judiciary, academia and community	✓	
Programme Design:		
Legally mandated		✓
Judicial support for contextual inquiry		
Leadership support and involvement		
Integration of social context and equality issues across curriculum		
Local development	✓	✓
Based on adult learning principles	✓	
Evaluation and feedback	✓	
Programme Implementation:		
Trained faculty and planning committees		✓
Outcomes/Short-term Effects		
Conducive conditions for transfer		
Impact/Long-term Effects		
Contribution to Human Rights culture		

Problem Identification

Both the LRG and Justice College programmes focus on judicial role and task. Unfortunately, Justice College does not make its course materials available to the public, but in scanning the programme outlines (and analysing the mission statement of the college) it appears as if the programme is designed to help magistrates in their roles. The college exists to ensure that the legal system is peopled with competent practitioners (magistrates, prosecutors and other court officials) and the programmes focus on technical skills and law related-knowledge. Similarly the objectives of the LRG's social context programme are to enhance and improve judicial role and tasks.

Needs Analysis

The LRG did attempt to obtain input on their programmes from members of the judiciary, academia and the community. The LRG's attempts involved informal consultations with members of the magistracy via their professional associations (Association of Regional Magistrates of South Africa (ARMSA) and the Judicial Officers' Association of South Africa (JOASA)), academia (faculty members), non-governmental and advocacy organisation. These however, were not formalised relationships and were generally ad hoc arrangements depending on operational needs.

Justice College does not seem to have embraced these three pillars in their approach to needs identification, curriculum design and programme delivery.

Programme Design

Social context training is not legally mandated in South Africa. The only legally mandated training is Justice College's curriculum for newly appointed judges. Their curriculum includes a minimal amount of content related to social context issues. Until recently the LRG was the only service provider offering social context training courses and participation in these courses was voluntary.

Both the regional and district magistrate associations have supported the work of the LRG and this support provides some evidence of judicial support for contextual inquiry. Judicial officers have not, however, been active in the development of social context programmes; nor have they been involved in the research activities that preceded the development of these programmes.

High-ranking judicial officers have not taken ownership of social context education programmes nor have they been involved in curriculum development or delivery.

Judges have not participated or been involved in either Justice College or in the LRG's programmes. Over the years there have been a few key magistrates and judges who have become integrally involved in the LRG's programme but they are exceptions.

The LRG did attempt to include magistrates in the development of training resources and trained magistrate-facilitators to co-facilitate the various workshops. On the whole, however, judges have not played any significant role. The training in South Africa, therefore, does not meet the requirements of being judge-led and nor is it court-run (Armytage, 2004).

The Justice College curriculum does not emphasise social context issues in its curriculum and hence it is not integrated across the curriculum and in the curriculum planning process. In the College's induction curriculum, one to two days are dedicated to this kind of training and the magistrates are told that it is optional to attend (all other sessions are compulsory).

While the emphasis of the LRG's programme is wholly focused on social context issues, the programme sits outside of the formal curriculum. In comparison with the best practice principles, there is very little integration of social context issues in the formal judicial education curriculum in South Africa.

Both the LRG's training programme and that of Justice College are designed to meet the requirements of judging in South Africa's local climate. In Justice College's case, the emphasis of the training is to ensure that magistrates attain the technical know-how to fulfil their judicial responsibilities. The in-service training attempts to keep them abreast with new and amended legislation. In this way Justice College is

attempting to respond to the needs of the local context in terms of legislative changes, while not focusing on social context issues.

The LRG's training programme is also designed to meet the requirements of the South African context and focuses on critical issues that are particularly problematic to judicial officers' work in South Africa. For example, there is a strong emphasis in developing programmes to help magistrates understand domestic violence-related issues in response to the statistics on domestic violence-related crimes in South Africa.

The medium of instruction at Justice College does not comply with adult learning principles. The instruction is pedagogic in style and generally lecture-driven.

The LRG's programme, on the other hand, has attempted to comply with adult learning principles in the way the workshops are structured and the nature (and form) of the activities.

The LRG's process for evaluating the training interventions involves evaluating participants' reactions post-training and the use of an external evaluator. An external evaluator is employed to attend every training workshop and is expected to assess the overall workshop programme, individual activities, logistical arrangements, participant evaluation sheets and make recommendations for future practice.

The external evaluator submits a formal report on the workshops and in theory the criticisms and recommendations are integrated into the design and organisation of future programmes.

The LRG also regularly submits reports to their donor organisations and these reports include evaluative information in terms of where and how funds have been allocated. There have been one or two large evaluation reports commissioned (Petty, 2001; Sarkin & Wolpe, 1999) since its inception. The reports are, for the most part, implementation assessments based on interviews and document analysis.

Programme Implementation

One of the key principles underlying social context education is ensuring competent skilled facilitators and trainers. The lecturers at Justice College are all legal professionals who have specialised in legal education. Their qualifications vary, as does their level of expertise and experience in social context issues.

The trainers at the LRG also vary in skill and expertise. The LRG has had one adult education specialist on its staff and for the most part the rest of the trainers have been ex-magistrates or legal practitioners. The situation in South Africa differs from the best practice examples because high-ranking judges and senior members of the Department of Justice and Constitutional Development have not taken an active role in the training.

One of the major differences between the South African situation and other cases such as Canada is that social context training in South Africa is offered primarily by a non-governmental organisation as opposed to a state-affiliated body. The LRG is a donor-funded organisation with no alliances or financial relationships with any national or provincial organ of the state. It is officially a research and training unit housed within a university and its survival depends entirely on its capacity to generate donor-funding. It has been predominately funded by large international donor organisations and has received limited support from local donors.

Another key difference is that there has not been a constructive collaborative relationship between the two major service providers (Justice College and the LRG). This relationship has been turbulent and complex despite the expectations of the LRG's primary donor body (SIDA) that it would establish collaborative links with the college (B. King, personal communication, October, 25, 2006).

The LRG's major donor organisation, SIDA, laid down two primary conditions in funding the LRG Unit. These conditions were meant to ensure the sustainability of the training programme: (1) it expected the LRG to diversify its funding sources and (2) it expected the LRG to establish a close working relationship with Justice College in which resources would be shared and joint programmes developed. This strategy

for sustainability was not managed successfully. The envisioned collaborative and reciprocal relationship with Justice College never materialised. While certain individuals within the two organisations established good working relationships at an institutional level, the organisations never entered into a meaningful partnership. Possible reasons for this could be their different approaches to training method, programme form and content. Justice College follows the traditional pedagogic type lecture structure as opposed to the more andragogic, experiential adult-learner type approach integral to the LRG's training method. The relationship was hampered by inter-organisational problems with communication and trust (B. King, Personal Communication, October, 25, 2006).

Programme outcomes/short-term effect and programme impact/Long-term effect

There have been no published evaluations or research on the short term effects of either the LRG's or Justice College's training programmes. The same can be said for the impact of both programmes. This knowledge gap was identified prior to this research project. One of the goals of this dissertation is to evaluate the LRG's programme outcomes using the SCM and hence generate some data about this programme's short-term effects.

A template of evaluation questions for generic judicial education programmes

As outlined in the best practice framework, much work is required in improving evaluation practices in this field. This is perhaps the combined task and responsibility of programme evaluators and programme designers.

Programme designers need to ensure that their programmes are constructed around clear and measurable outcomes. They need to develop explicit success indicators against which their programmes can be assessed. It might be useful for programme staff to consult with programme evaluators at the design phase to assist the development of indicators. Skilled and experienced programme evaluators can

facilitate in this process, especially in cases where programme staff are content specialists as opposed to programme design experts. Programme evaluators can potentially improve the design process by participating in a formative reflexive process with programme staff as opposed to being involved in end-point summative evaluations.

Figure 5 presents a template of evaluation questions for a generic judicial education programme that might support a more formative approach to evaluations in this area. The template is loosely based on the work of Chen (2005) and aims to assist evaluators in improving the quality of assessments in this field.

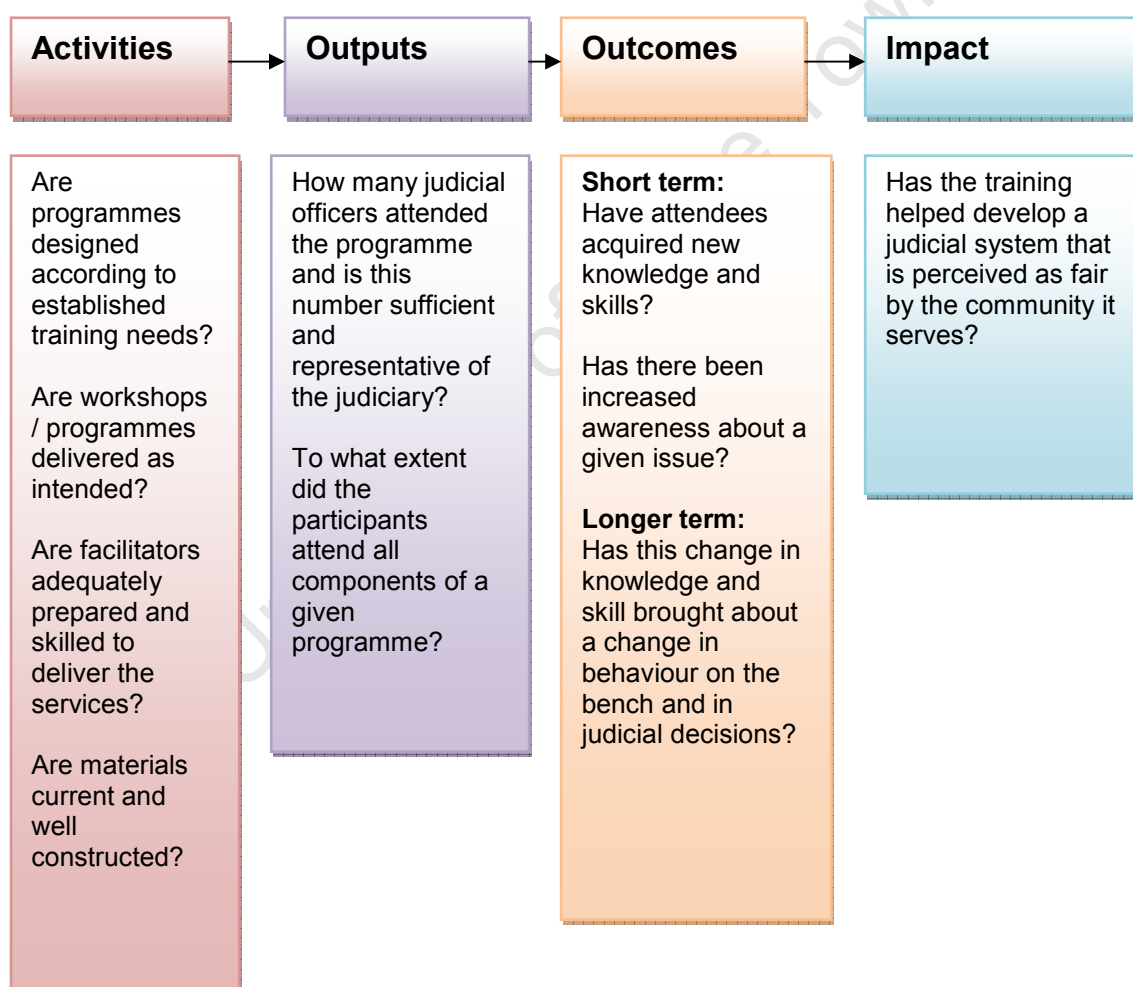


Figure 5. Evaluation questions for generic judicial education programmes

Evaluators need to refine their evaluation questions according to the specific goals and objectives of their programmes, but the template could form the basis of their assessments. Evaluations that attempt to answer questions at these different levels will provide useful and usable data for programme improvement. The information would also provide data against which one could judge the extent of programme success.

The forthcoming evaluations presented in subsequent chapters of this document aim to contribute to this field of study by reporting on the results of a multi-level evaluation across the evaluation hierarchy. These evaluations seek to answer the evaluation questions outlined in Figure 5.

The literature reviewed and described in this chapter suggests that there is sufficient information on judicial training to track global trends, best practice and provide generic evaluation questions for these programmes.

In the next four chapters, the information presented here regarding global trends, best practices and evaluation questions will be used to assess the needs identification process, the programme impact theory and the implementation and outcomes of the LRG's social context training programme for South African magistrates.

CHAPTER FOUR

Assessing the need identification process of the LRG's Social Context Programme

Central to the development of an effective social programme is the accurate diagnosis of the social condition the programme is designed to address (Anderson, 1993, 1994, Bee & Bee, 2005; Bennett, 1988; Kaufman & English, 1979; Moore & Dutton, 1978; Noe, 2008; Rossi, Lipsey & Freeman, 2004; Reid, Barrington & Kenney, 1992; Soriano, 1995; Truelove, 2006; Williamson, 1993, Witkin & Altschuld, 1995). This diagnosis is a result of conducting a needs assessments and attempts to identify what the social need is and what kind of programme would best address it (Bartram & Gibson, 1994; Gaber, 2000; Posavac & Carey, 2007; Rossi et al, 2004).

The more reliable the assessment of the social need the greater the possibility of designing a successful intervention. Without clearly articulated outcomes, it is difficult to measure the degree of success attained through the programme.

Needs assessments should take place before programmes are designed but they should also take place during long-term programmes to ensure that the original need identified remains relevant throughout the duration of the programme (Rossi et al., 2004). Evaluators generally play no role in the process of needs identification (Rossi et al.). Evaluators tend to begin working with the programme staff of already-established programmes designed to address specific (and identified) needs.

The aim of this chapter is to describe how the need was established and why the chosen intervention was accepted and funded as a possible programme for addressing this need. The discussion will show that the need identified represented the specific values of the programme initiator and designers and was not the result of

a systematic scientific needs assessment process. Some of the implications of this are evident in the discussion in Chapter Seven which reports on the outcomes evaluation of the programme.

In attempting to understand and analyse how the training need was identified in this case, it is important to recognise that needs rarely represent an objective reality (Guba & Lincoln, 1989). The needs identification process is generally influenced by the particular interests and values of key stakeholders (Bode, 1938; Guba & Lincoln). The ways training needs are defined, identified or prioritised are socially constructed by particular stakeholders and hence represent their values and assumptions.

This needs assessments aims to answer the following evaluation questions:

1. What is the problem and what is the extent of the problem?
2. Who is affected by the problem (who would be the targets for a possible intervention)?
3. What kind of intervention was chosen to address the problem (Rossi et al., 2004)?

METHOD

Data Sources

The data used in this chapter were collected from a variety of documents and through in-depth interviews with programme staff and other stakeholders.

In-depth interviews were conducted with a variety of stakeholders. The sample of interviewees was identified through a purposive sampling strategy (Kuzel, 1999; Morse, 1989). The characteristics of the interviewees are summarised in Table 4.

Table 4

Characteristics of Sample

Race and Gender Demographics							
Position/Affiliation	Number	Black male	Black female	White male	White female	Coloured male	Coloured female
Programme designers	2				2		
Office Manager	1				1		
Programme directors	2				1		1
Programme staff	3			1		1	1
Board members	3			1	1		1
Donor representative	1				1		
Subtotals				2	6	1	3
Total	12						

In order to establish how the social need was identified, the evaluator embarked on a systematic analysis of historical narratives in the form of annual reviews, intranet resources, funding proposals and in-house administrative records from the LRG.

The evaluator also reviewed the early research projects that were commissioned by the LRG and designed to inform the development of the training programme.

Table 5 summarises the documents used in the analysis. It demonstrates the target of the information for each document source and summarises the type of information contained in the document. Please refer to Appendix A for a complete list of the records and documents consulted.

Table 5

Summary of Records and Documents used in Document Analysis

Source Document	Target	Information Type
Promotional material (i.e. brochures, website)	Magistrates/ targets of training	These documents contained information outlining: the importance of social context training for magistrates, where training is applicable and the LRG Unit's approach to training
Funding Proposals	Donor organisations	All the funding proposals analysed began with a statement of the perceived training need/social need
Progress reports for funders	Donor Organisations	Most of the progress reports to donors included a statement or discussion of the training need as perceived by the programme staff
Donor assessment Reports	Programme staff	Some donor organisations (i.e. Swedish International Development Agency) kept assessment memorandum which contained information about the social need
Research articles Commissioned by the LRG in early 1990s	Programme staff, donors and academic community	These articles are based on empirical investigations into the South African judicial system in the early 1990s. They explored aspects of judicial discrimination and bias in the courts
Assortment of historical, popular and theoretical documents	Programme staff and associates	Academic and research articles, media reports, conference papers, legal cases and commentaries on cases, workbooks, guides, correspondence with magistrates and magistrate associations, News and Views

Procedure

A variety of records and documents were reviewed for information pertaining to the original need identification process. Access to many of these documents was provided by the LRG's office manager and director.

The researcher was given access to the LRG's internal shared storage area on the University of Cape Town's (UCT) network and to documents housed in the LRG's storerooms. The researcher also accessed documents in the LRG's bibliography and resource collection which is housed at the Social Justice Resource Project (SJRP), in Kramer Law Building (UCT).

The documents were initially scanned for information pertaining to the needs identification process. Documents that appeared to contain relevant information were filed and organised according to their type, i.e. research articles, annual reports or funding proposals. These documents were then carefully reviewed and pertinent information was highlighted. This information was later categorised, organised and summarised into written answers to the questions: what was the problem identified, who was affected by the problem and what was the chosen intervention? These summaries were later compared and collated with the information emanating from the interviews.

Qualitative data were collected through twelve open-ended, semi-structured in-depth interviews. Three of the interviews were audio-taped and then transcribed. For the rest, notes were taken during the interview process. The length of the interviews ranged from 40 to 90 minutes.

The interviews with the two programme designers, one office manager, three programme staff members and two programme directors were conducted as part of an evaluability assessment at the initial stages of this evaluation process. Information pertaining to various aspects of the programme was discussed during these interviews. One of the key areas of the interview revolved around the process through which the original training need was identified. The analysis of this section of the transcriptions is used in this chapter. The interview schedule is included in Appendix B. The evaluator also conducted interviews with three board members and a donor representative in order to gather information from relevant external stakeholders. The sections of these interviews pertaining to the identification of the training need are used in this analysis.

RESULTS

The analysis process involved examining research articles, programme documentation and records. The evaluator began by defining the boundaries for the analysis by identifying a list of relevant documents (displayed in Table 5). The document analysis aimed at synthesising information that related to how the social problem was defined and who appeared to be affected by the problem.

The interview transcriptions were analysed using Miles and Huberman's (1984, 1994) qualitative data analysis technique. Many of the processes and techniques described in the Miles and Huberman (1984, 1994) text have been incorporated or cited in a variety of theoretical texts on qualitative data analysis (Creswell, 1998, 2003; Denzin & Lincoln, 1998, 2003, 2005; Wolcott, 1990; Yin, 2003), including texts that deal with qualitative enquiry and programme evaluation (Alkin, 2004; Chen, 1990; Davidson, 2005; Mertens, 2005; Patton, 1997, 2002; Steckler & Linnan, 2002; Weiss, 1998). Consequently the Miles and Huberman (1994) framework was chosen as it is widely recognised and offers a systematic process for the analysis of interview data.

The evaluation questions were used to reduce the data and then computer functionality was employed to provide evidence for these questions. The evidence was sorted according to patterns or repetitions by the data providers. At least six data providers had to agree in order for a result to be identified. The researcher followed Seidel and Kelle's (1995) description of the process of sorting or coding data. She undertook three key operations in the coding of her data. She began by (1) identifying relevant phenomena in the transcripts, (2) highlighting and collecting examples and instances of these phenomena, and (3) analysing the phenomena in order to discover commonalties, disparities, patterns and configurations. Working through the interview transcripts repeatedly the researcher used computer technology and by means of cutting and pasting functionality, she began to collate examples and instances where the data providers discussed common phenomena. The researcher developed a series of files, which were made up of similar examples, and these were analysed in order to discover commonalties, discrepancies and relationships.

The next phase in the process is data display. This involves organising the data in such a way that the evaluator can make descriptive and explanatory conclusions about how the need was identified. The evaluator attempted to compare, contrast and collate the interview data with the information emanating from the document analysis.

The evaluative questions cited at the beginning of this chapter (what is the problem and what is the extent of the problem, who is affected by the problem and what kind of intervention was chosen to address the problem?) were used as organising principles for making sense of the data displayed and for drawing conclusions about how the training need was identified and subsequently defined.

The researcher attempted to verify the conclusions drawn from the data analysis process through follow-up discussions with the programme staff.

Direct quotations from the interviews, documents and records are provided as evidence for the results of the analysis.

During the process of investigating how the need was identified, a number of documents and interview participants referred to the historical context in which the LRG was established. A brief summary of the historical development of the LRG is presented here as it forms the context in which the need was identified and partly explains why the need was defined in the way that it was. It precedes the results to the evaluation questions.

A-typical process for establishment of LRG and selection of programme

The idea for establishing a social context training unit for judicial officers in South Africa emerged out of discussions in the early 1990s between the Executive National Director of Lawyers for Human Rights, Brian Currin, and Kathleen Mahoney, a prominent Canadian professor in the field. Professor Mahoney was centrally involved with the Canadian judicial education programme and persuaded the director that judicial education was an essential component in ensuring a free and fair judiciary.

At the time the Canadian programme was being exported to places like Australia, Israel and Puerto Rico. The Canadians were enthusiastic about seeing a similar project established in South Africa.

The director approached a number of legal scholars and practitioners to discuss the possibilities for judicial education in South Africa. While the Canadians were working with judges, the South African group decided that they would concentrate on magistrates as they are at the frontline of justice delivery in the South African court system. They were also of the opinion that South African judges would not participate voluntarily in training.

The architects of the programme were invited to attend a Legal Education and Action Fund (LEAF) conference in Canada in 1992 where they met all the main practitioners in the judicial education movement. The LRG was established after this trip. The establishment of the LRG also received the support and endorsement of the South African Minister of Justice at the time.

The LRG was established initially as a research institute to conduct formal investigations into matters of race and gender discrimination in the South African legal system. This initial research was envisioned as forming the foundation for future training programmes. A limited number of academic articles were published from this earlier research (i.e. Budlender, 1994; Koen, 1995; Murray, 1995; O'Sullivan, 1994) but no systematic formal learning/training needs assessment was conducted. The LRG was established in the mid-1990s and the training workshops started in 1998.

What is the problem and the extent of the problem?

The qualitative data analyses of the records and interview transcripts revealed that discriminatory practice in the South African judicial system was the social problem that was identified. The extent of the problem was deemed greatest in the lower court system.

The analysis of the early research projects and documents emanating from the LRG revealed that there were serious problems associated with the South African legal system and the fact that it was characterised by racial discrimination:

Many people in the Black community...believe that the law and the system of justice are creations of the White man for the White man...there is a common saying which holds that in South Africa a Black accused is guilty even before the trial begins (Qwelane, as cited in Sarkin & Wolpe, 1999, p.18).

The South African criminal justice system has long been perceived as being biased against people of colour. Critics point especially to differential sentencing standards applied by white judicial officers when dealing with accused of different colour (and social status) (Koen, 1995, p. 102).

Similarly, all twelve interviewees explained that the problem that was identified was discriminatory practices in the South African judicial system. Here is one example:

The courts were ill-equipped to deal equitably with people from diverse cultural backgrounds. The problem relates to the fact that after the democratic elections of 1994 the South African judiciary needed to start grappling with the challenges associated with transformation on multiple levels. (Interviewee 7)

The problem as identified by the three programme staff members, two designers and three board members related to a history of unfair and discriminatory practices by judicial officers. The interviewees explained that this problem was exacerbated by the demographic characteristics of court officials and judicial officers.

The courts were staffed by predominantly White males who lacked knowledge and understanding of people who differed from them. If judicial officers are ill-informed of the conditions in which the people

who appear in their courts live, there is a serious risk of unjust decision-making. (Interviewee 2)

For example, in the same way a judge presiding over a matter of corruption or fraud in a company would have some knowledge of how the company works and how it conducts its financial business, a judge presiding over a case of domestic violence should have some sense of the psychology of domestic violence and some knowledge of the well-established cycle of violence which often underscores these situations. This is not taken for granted amongst magistrates. (Interviewee 3)

The following quotation summarises how the training need was derived from the problem-identification process:

I think the need was identified completely arbitrarily ... we all believed that the magistrates' courts were not good. I'd prosecuted, I knew terrible things went on and that was kind of a common understanding amongst lawyers, and perhaps in the public, certainly in anti-apartheid circles that these courts are terrible. Did we explore it much, no.... it was quite amateurish ... but I think it happened to be right... (Interviewee 1)

Who is affected by the problem?

The qualitative data analyses of the records and interviews indicated that judicial officers operating within the lower court system (magistrates) were identified as the targets of the intervention.

The results of the documentation and interview analysis indicated that the problem of racial discrimination was particularly apparent in the lower courts or magisterial courts. Magistrates were also identified as the target for training as they constitute the highest numbers of judicial officers in South Africa and are more available for and amenable to training, compared with High Court judges.

... we couldn't, didn't want to do judges, we wanted to do magistrates, because magistrates, you know, are the coal face of delivery of justice in the court system ... (Interviewee 5)

... we talk about magistrates and their courts, and you know the environment inside, we started by focusing on decision-making, and their practice in courts, because magistrates have huge influence in courts, magistrates can actually also determine the way prosecutors behave. I know from being a prosecutor that your magistrate can keep you really on your toes. So, why did we do magistrates, partly because that was where the funding came, and magistrates seem a good thing to do ... we train people who want to be trained... (Interviewee 1)

What intervention was chosen?

The programme designers determined continuing professional development courses that focused on social context issues to be a possible solution to the problems identified. These courses were envisioned as an intervention to bring about the transformation of the judiciary.

Social context methodology is the foundation of all of LRG's work. Whilst the project has identified key focus areas these are not to the exclusion of others. LRG remains committed to addressing issues of transformation in the courts by focusing on practice. LRG recognises that it is necessary to engage judicial officers on their own attitudes in order to raise the consciousness of judicial officers of the role, responsibilities and obligations of this office (LRG Focus Areas document, 2005).

The workshops are a very special occasion for peers to focus on aspects of their work that are critical to them, both professionally, but also as citizens committed to transformation and development. Therefore, in the design and facilitation of each part of the workshop, it

is critical that many opportunities are provided for the expression and sharing of the experience and wisdom in the room. In this workshop, the small group work will be the most important method used... (Participant Workbook, Social Context Training Workshop for Kwa-Zulu-Natal Regional Court Magistrates, 2005)

All twelve interviewees concurred that the development of social context workshops was the appropriate intervention for the problem identified.

It was a basic sort of logical thinking to actually say, we had an all-White magistracy and judiciary. We are now going through a major constitutional transformation; we are applying new kinds of laws and new kinds of ways to a whole broad sector of the community. A community of peoples about whose lives and realities the courts know nothing. So you know, it was quite easy to argue, just argue the case for why some form of social context training was necessary, or social context interventions or whatever you want to call it... (Interviewee 4)

The goal...you want to change how people think, how they perceive the world... (Interviewee 8)

DISCUSSION

The problem in this case was identified by prominent individuals working in the area of human rights law and by the Minister of Justice in the mid 1990s. The need reflects the values and concerns of this group of people and is not a result of a systematic needs assessment process (Anderson, 1993; Bee & Bee, 2003; Kaufman & English, 1979; Rossi et al, 2004; Soriano, 1995; Truelove, 2006; Williamson, 1993; Witkin & Altschuld, 1995).

This is an illustrative example of how the values of a particular group of people influenced the identification of the training need. Guba and Lincoln (1989) remind evaluators that to make sense of a needs identification process, one must locate it in

a broader context. “Unfortunately, planning and evaluation practitioners have, to a major degree, forgotten or chosen to ignore Bode’s warnings that needs cannot be determined except in terms of some value system.” (Guba & Lincoln, 1989, p.312). In this case, the establishment of the training unit took place before any empirical research or formal needs assessment was conducted. This is a reversal of the usual order of the process, in that a unit was established with ample funding which led to the imperative to train. Generally, a social problem or need is identified and a unit or organisation is constituted to develop an intervention to try to ameliorate the social problem or address the need.

One could argue that in certain circumstances, such as this one where the need is explicit, one does not require a systematic needs assessment. Perhaps in these circumstances where there is a burning social problem that requires speedy redress, one can forfeit the formal needs assessment process. For example, in this case, given the climate of transformation, the transitional government structures and interim constitution, the need for judicial education in social context matters was indisputable. The problem arises, however, when one attempts to begin designing an intervention to tackle the need. A general acceptance about an irrefutable social problem does not necessarily translate into a clear understanding of the gaps in skills, knowledge and awareness that require remedial attention and insight into how to bridge these gaps.

Numerous authors would suggest that regardless of the circumstances, there are strong arguments for generating empirical data to substantiate and justify the development of any social programme or training intervention (Bartram & Gibson, 1994; Bee & Bee, 2005; Kaufman & English, 1979; Soriano, 1995; Williamson, 1993; Witkin & Altschuld, 1995). These arguments include the fact that needs assessments provide “standards for converting facts into evaluative conclusion” (Scriven, 1991, 2006-207). Needs analysis data provide critical baseline information that can be used by evaluators across multiple evaluation questions (Davidson, 2005) and are one key category of indicators for measuring of outcomes.

What is the problem and the extent of the problem?

The social need that was identified was the need to eradicate discrimination in the judiciary and judicial process. This applies to judicial decision-making and the administration of courts and court practices.

The results suggest that the problem identified was two-fold: (1) the various apartheid laws created a formal legalised system of racial inequality, and (2) the administration of justice through the courts and informal court practices involved discrimination based on race and gender (Dissel & Kollapen, 2002). Many of these discriminatory practices emanated from National Party policies and resultant laws that produced criminal sanctions to support the apartheid system (Dissel & Kollapen). These criminal sanctions were employed to curb resistance to apartheid and were an integral part of the human rights abuses that took place under National Party rule. Both race and gender discrimination had been explicit and embedded in South African law. While constitutional change brought about changes in many aspects of law, tackling discriminatory practices was considered to be a more difficult problem to target.

A consistent theme which emerged throughout the interviews, records and research projects was that the South African judicial system has a legacy of differential and unequal access to justice. There is sufficient evidence to support the premise that the LRG's programme was developed in response to a legitimate social condition. The problem of racial and gender discrimination in the South African magisterial system has been identified by various and disparate constituencies (Budlender, 1992; Currin, 1994; Currin & McBride, 1993; Dissel & Kollapen, 2002; Kgalema & Gready, 2000. Koen, 1995; Mahomed, 1998; Murray, 1995; O'Sullivan, 1994; Sarkin & Wolpe, 1999).

The need that was identified falls within the category of instrumental needs as opposed to functional or performance needs (Davidson, 2005). Instrumental needs are what Scriven (1991) defines as "treatment needs" and relate to the kind of

intervention required to address the problem. The distinction between these categories of needs is important as it has bearing on the nature of the intervention chosen. As discussed in detail in the next chapter, the LRG's programme had relatively broad objectives which relate directly to how the problem was defined. The problem of racial and gender discrimination within the South African magistracy required further analysis in order to establish precise performance needs. This analysis could have investigated actual gaps in magistrates' work performance that contributed to the overall instrumental need. More detailed information about magistrates' functional needs might have further enhanced the design and development of the training programme.

One way of attaining more detailed information about magistrates' functional needs could be via the results of the formal judicial review process. All magistrates' decisions are monitored by judges through this process and judges endorse appropriate decisions and override wrong decisions. The judicial review process is, in part, a performance management system and hence could be a valuable source of information about magistrates' learning needs.

Who is affected by the problem?

Magistrates were targeted for the training. Researchers (Budlender, 1994; Currin, 1992; Currin & McBride, 1993; Dissel & Kollapen, 2002; Kgalema & Gready, 2000; Koen, 1995; Mahomed, 1988; Murray, 1995; O'Sullivan, 1994; Sarkin & Wolpe, 1999) presented evidence that the magistrates' courts were beset with problematic practices in the way they were run and how justice was being administered.

Results from the interviews suggest that magistrates were targeted for training because they are at the forefront of the judicial system in South Africa. They also play an influential role in how their courts are run and the practices that take place in their court-room. In addition, they were also more willing to be trained than judges.

In the apartheid era magistrates were public servants and were generally recruited from areas in the public service as opposed to the legal community (Kgalema &

Gready, 2000). As public servants they were controlled by the Department of Justice and were essentially instruments of the state. Magistrates' status as public servants only changed with the Assessment of the Magistrates' Act (1993). These factors, amongst others, meant that the lower courts were ill-equipped for their role in a post-apartheid, democratising society and were unprepared for the demands of the new constitution.

While the higher courts are predominately in charge of interpreting legislation and establishing the standard of justice, the lower courts are at the "frontline" of the judicial system in South Africa. Most people come into contact with the lower court when engaging with the judicial system (Kgalema & Gready, 2000). The imperative for increasing the independence and efficacy of the lower courts is illustrated in the following quotation:

It is in the Magistrates' Courts that justice is tested in its most crucial, most pervasive, most voluminous, most pressurised, and logistically most demanding dimensions – in literally thousands of cases every day...The continuous struggle of the legitimacy and the efficacy of the instruments of justice is substantially lost or won in the Magistrates' Courts (Mohamed, 1998, p. 47-8).

What intervention was chosen?

In response to the problem, the LRG initiated a programme for social context training (Sarkin & Wolpe, 1999). Social context training is regarded as an appropriate intervention for the problem identified (Govender, 1997) and aims to expand awareness of the various ways in which bias and stereotyping operate in judicial decision-making and court conduct. The purpose of this kind of training is to increase knowledge and understanding about social context issues and to help change discriminatory behaviours.

Conclusion

Thomson (2004) suggests that the best approach to establishing what judicial officers need to learn is by (a) getting judges input via course evaluations, accessing

judicial net-works, and including judges in curriculum planning committees and (b) obtaining non-judicial input from adult education experts, subject specialists and community advisory committees. None of these approaches were followed in this case.

For future training programmes, magistrates should be consulted in the needs identification process and their input used in the development of specific, clearly focused training objectives. A needs assessment process could canvass the opinions of other stakeholders like prosecutors and court officials who work with magistrates on a daily basis and use information emanating from the judicial review process.

It is clear from the information presented in this chapter that a formal, systematic and in-depth needs assessment process was not conducted at the onset of the programme. The implications of this are discussed in the various evaluations presented in the rest of this document.

CHAPTER FIVE

Assessing the Programme Impact Theory of the LRG's Social Context Training Programme

The aim of this chapter is to describe and evaluate the programme impact theory underlying the LRG's programme of social context training. Evaluation at the theory level of the evaluation hierarchy assesses whether the causal logic implicit in the programme is practically realistic and theoretically sound (Donaldson, 2003). This level of evaluation analyses how well the programme theory is constructed in relation to social psychological knowledge about attitude and behaviour change. The programme theory is examined in order to assess the feasibility of the stated objectives of the intervention (Rossi, Lipsey & Freeman, 2004).

This theory evaluation will address some of the limitations of the underlying causal logic of the programme when compared with the complex causal logic of social psychological theories of prejudice, attitudes and their relationship with behaviour and change. It will offer possible reasons why the intervention, as it is currently conceptualised, may not bring about the desired change in individuals' deep-seated and entrenched belief systems.

This theory evaluation addresses the following evaluation questions:

1. Are programme goals and objectives well defined?
2. Is there alignment between the programme theory and a documented social need?
3. How well does the programme theory compare with research and practice?

4. Is the programme logic feasible and plausible?

METHOD

Data providers

The two primary programme designers were interviewed as part of an evaluability assessment during the early stages of this research process. The in-depth interviews provided detailed data about the LRG's social context training programme. Data emanating from these interviews were included in this theory evaluation. In addition to the programme designers, four programme staff members (the acting director of the programme, two senior facilitators and the LRG's office manager) were consulted in the process of designing the programme logic model.

The following programme records and documentation were consulted for this theory evaluation:

- Participant and Facilitator Workbooks (1998-2004)
- Policy documents (1998-2004)
- In-house workshop reports (2000-2005)

Procedure

There are a number of steps in a theory evaluation. Firstly, the evaluator has to extract a logic model of the training programme (Donaldson, 2003; Rossi et al., 2004). Secondly, once the model has been extracted the evaluator has to assess whether it represents the key stakeholders' understanding of the underlying causal processes implied in the training programme. Thirdly, the evaluator is required to outline historical conflicts and problems in the conceptualising of the programme which might be reflected in the final product.

The logic model for the LRG's social context training programme is based on a combination of document analysis and in-depth interviews with programme staff.

The evaluator contacted the six programme staff members to obtain feedback on the model. All parties concurred that the model was an adequate representation of the causal processes implicit in the training programme. Some suggestions were made and the model was amended according to these suggestions.

In order to establish whether the model represents the key stakeholders' understanding of the underlying causal processes the evaluator interviewed the two programme designers. These interviews were conducted at the onset of the evaluation as part of an evaluability assessment (Wholey, 1994). The information emanating from these interviews is incorporated into the section of this chapter that deals with the programme's goals and objectives.

RESULTS

Figure 6 illustrates the programme theory underlying the programme. The various components of the model are presented below the figure. The arrows in the model represent the causal links.

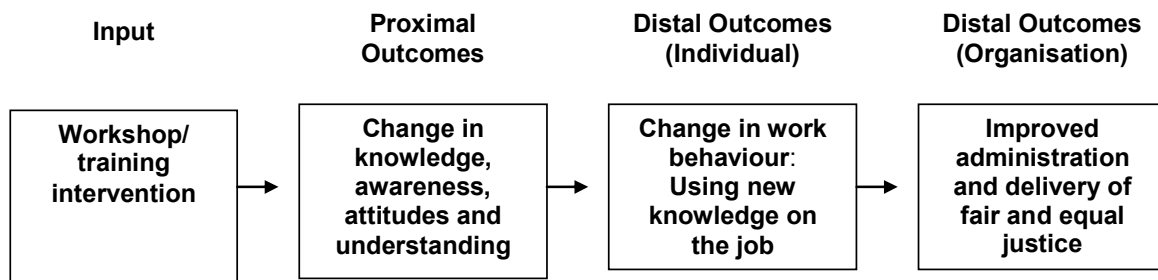


Figure 6. Programme Logic Model

Input:

- The input consists of a two-day training workshop.

Proximal Outcomes:

- An increase in knowledge about racism and sexism in general

- An increase in self-awareness in relation to personal prejudices
- An increase in knowledge and self awareness regarding how discriminatory attitudes translate into discriminatory behaviours and how these impact on work relationships and practices
- An increase in knowledge and understanding of how unconscious racism and sexism impact on the application of judicial decision-making and the management of diversity in the courts
- An increase in understanding of how race and gender discrimination have been structurally embedded in societal institutions and results in differential treatment by the courts

Distal Outcomes (for individual magistrates):

- Decrease in racist and sexist language in judicial judgements
- Decrease in racist and sexist language in court practice
- Decrease in racist and sexist behaviour in court practice
- Decrease in racism and sexism in interpersonal relationships with staff
- Decrease in evidence of biased treatment of complainant, defendant and witnesses as reflected in the treatment of testimony and trends in sentencing
- Acting as a change agent for transformation of the magistracy
- An increase in magistrates' ability to engage and deal with work behaviours appropriately in relation to issues of racism and sexism
- Increased use of diversion-type sentences
- Increased use of creative and thoughtful sentencing practices
- Decrease in complaints of bias and discrimination by court users

Distal Outcomes (for the lower court system):

- Improved performance of lower court system in delivering justice appropriate to South Africa's diverse society

The programme logic model illustrates how the social context training intervention is designed to bring about a variety of changes in individual magistrates' level of

knowledge, understanding, attitudes and skills. The programme is designed to increase knowledge about social context issues. This knowledge then leads to changed behaviour in the workplace. The changed workplace behaviour, in turn, leads to improved justice delivery.

Are programme goals and objectives well defined?

There is an important difference between programme goals and objectives (Rossi et al, 2004). Programme goals refer to the programme as a whole and are often articulated in broad terms.

The following goals of the programme are outlined on the LRG's website:

- To make participants more aware of the different views and experiences of the world that people have
- To explore ways in which participants might understand different attitudes and different social realities of people, and
- To enable participants to recognise and to deal more sensitively and fairly with the problems they face (<http://www.lrg.uct.ac.za/>, 2006, 2).

The following goals are described in a covering letter that appears at the beginning of most workshop workbooks from 2003 – 2005:

Social context training is education that aims to give judicial officers and other court officials the necessary knowledge and understanding to appreciate the perspective of others and their differing circumstances so that their decisions are just and appropriate to the society in which we live.

LRG is concerned generally with issues relating to law, race and gender in the administration of justice. However, its specific focus is on magistrates' courts...in transforming the legal system into one that is fair and free of bias. To achieve a system which is sensitive and responsive to the needs and circumstances of all South Africans

requires judicial officers...who are conscious of the economic, social and cultural diversity of our society and who are able to respond appropriately and with insight into the complex demands placed on them by South African society. (Overview, 2004, p. 6)

As seen from the evidence provided here, the goals of the programme as a whole are broad and relatively abstract. As they stand they do not describe situations that can be “directly and reliably observed” or measured (Rossi et al., 2004, p. 89). This evaluation dilemma is not unique to this programme Rossi et al (2004) state that goals are generally vague and future-oriented. The programme logic model attempts to transform these goals into clear and precise statements in order to articulate the purpose and logic of the programme.

There is no uniform set of stated objectives for the programme as the content of the workshops differs across years. The objectives of each specific workshop are generally stated in the introductions to the various facilitators’ guides and participants’ workshop workbooks. There is lack of consistency across the workshops where some manuals have more detailed stated objectives whilst others have very vague objectives. Some manuals refer to programme goals and do not state specific objectives. Table 6 presents evidence of this from a sample of facilitators’ guides and Table 7 presents evidence from participants’ workbooks.

Table 6

Examples of Workshop Objectives from Facilitator Workbooks

Facilitators' Guide	
Workshop Title	Stated Goals and Objectives
Social Context Training Workshop, Kwa-Zulu Natal, "Contextualising sexual offences" (February, 2005)	<p>Participants will be able:</p> <ul style="list-style-type: none"> • To reflect on the role of a judicial officer in the context of South African society • To understand the impact of the Constitution on them as judicial officers and in decision-making • To integrate an awareness of social context issues in decision-making in sexual offences • To understand the effect of the proposed legislation on decision-making in sexual offences • To discuss the circumstances in which evidence of previous sexual history can or cannot be permitted • To discuss the new proposed Criminal Law (Sexual Offences) Bill • To discuss procedural aspects pertinent to sexual offences • To understand how to deal with occupational fatigue • To discuss ways of how to deal with sexual offences courts and roles (Sardien, 2005)
Social Context Training Workshop, Bain's Game Lodge, Bloemfontein (Nov, 2004)	<ul style="list-style-type: none"> • To contribute to the transformation of the judiciary through the development of magistrates able to integrate social context awareness in the judicial decision-making process • To promote the development of structure and processes for sustained peer learning (Sardien & Ndita, 2004, p.7)
Social Context Training Workshop, Wintershoek, Northern Province (May 2003)	<p>Participants will be able:</p> <ul style="list-style-type: none"> • To identify the sources and forms of inequality between men and women in South Africa • To reflect on the formation of their own and their colleagues' identities in the context of South African society • To critically discuss social concepts such as stereotyping, identifying with the familiar, cultural and linguistic inequivalence (sic) and the implications of ignorance and socio-economic factors (Sardien, 2003)
Empowering the Judiciary through Social Context Awareness, Western Cape (March, 2001)	<p>Overall goals of the workshop</p> <ul style="list-style-type: none"> • To introduce social context awareness training, and its relevance for judicial decision-making • To expose the magistrates to specific instances where diversity issues impact on judicial decision-making for example, gender-based violence (Amien, 2001. p. 3)

Table 7

Examples of Workshop Objectives from Participators' Workbooks

Participants' Workbook	
Workshop Title	Stated Objectives
Social Context Training Workshop for Magistrates Zuurberg Mountain Inn, Eastern Cape Province, (March, 2004)	<p>Participants will:</p> <ul style="list-style-type: none"> • Examine their understandings of the impact of gender inequality on their personal lives and professional practices • Discuss the practical and legal challenges in the adjudication maintenance cases, the administration of estates and the awarding of civil damages • Clarify and apply selected gender concepts to illuminate the situations and practices of magistrates in South Africa (Sardien, 2004, p.8)
Social Context Training for Magistrates, Bergville, (August, 2001)	<p>Overall Goals of the workshop:</p> <ul style="list-style-type: none"> • To contribute to the transformation of the judiciary through the development of magistrates able to integrate social context awareness in the judicial decision-making process • To promote the development of structures and processes for sustained peer learning <p>Objectives:</p> <ul style="list-style-type: none"> • Introducing the key components of the social context approach • Reflecting on the role of the Constitution in the work of magistrates • Discussion and reflection on selected diversity issues as these impact upon the work of magistrates • Building networks for resources and support (Sardien, 2001)
Denial and Discovery: Empowering magistrates through social context awareness, Caledon (March, 1998)	No stated objectives in the workbook
Justice Today: The Final Chapter or A New Beginning? Eastern Cape, (November, 1998)	No stated objectives in the workbook

Programme objectives are more narrowly defined and indicate specific desired outcomes of the programme (Rossi et al.). The evidence indicates that the LRG programme's objectives are broad. It is difficult to discern specific measurable objectives. The objectives, for the most part, involve knowledge and information sharing. This is evidenced in the language of the stated objectives. According to the

manuals, the objectives of the programme include **introducing** magistrates to variety of topics; **exposing** magistrates to specific instances where social context issues impact on judicial decision-making; **examining** their understanding of a variety of topics; **discussing** issues etc. The emphasis appears to be on discussing and reflecting on various topics as opposed to developing skills and competencies to perform differently in court or to manage cases in a fair and equitable manner. These are internal, mental processes and are not observable or measurable.

Is there alignment between the programme theory and a documented social need?

The training programme is designed to contribute to the eradication of racial and gender discrimination in the administration of justice by magistrates in South Africa. Up until 1992 there was very limited research into this area. The LRG was established initially as a research institute to conduct formal investigations into matters of race and gender discrimination in the South African legal system.

The need for such a programme was identified by the Minister of Justice in 1994 and various other institutions such as Lawyers for Human Rights and the Centre for Applied Legal Studies (CALS). Research emanating out of the LRG Unit, and other organisations, contributed to the identification of inherent racial and gender bias in the magistrates' courts (Budlender, 1994; Currin, 1992; Currin & McBride, 1993; Dissel & Kollapen, 2002; Koen, 1995; Murray, 1995; O'Sullivan, 1994).

How well does the programme theory compare with research and practice with regard to the design of the programme?

Rossi et al. (2004) suggest that one practical way of evaluating programme theory is to analyse it in relation to established research and current practice. Current practice in this field has been described in detail in chapter three of this document. This section compares the LRG's programme with relevant research on the design of judicial education programmes.

Conventional methods of professional education are not appropriate for judicial officers (Claxton, 1992). Courts, courtroom processes and judicial systems are unique forms of work and work organisations (Malleon, 1997). Unlike almost every other profession, where the responsibility of taking important decisions can be shared or referred, in the justice system judicial officers take sole responsibility for the decisions they make. These decisions are also intricate and involve issues of individual liberty and human rights.

Judicial officers' work is further complicated by the fact that:

- (1) they cannot retain all the technical knowledge required for every case they preside over;
- (2) there is no fool-proof way of assessing which witnesses to believe and
- (3) an inherent characteristic of their job is their discretionary power, and responsibility, to hand down sentence based on their assessment of the merits of a case (Claxton, 1992; Twining, 1987).

The reality of a judicial officer's position in society and the gravitas of their decisions need to be reflected in judicial training programmes. "Programs that are unfocused and not based on thoughtful, long range planning won't do." (Claxton, 1992, p. 12).

Research indicates that the majority of judicial education programmes around the world are associated, initiated, implemented and staffed by members of the formal judicial system (Armytage, 2004).

As discussed in Chapter Three, Armytage's (2004) model (based on practices in countries like Australia, Britain, Pakistan, Philippines and Mongolia) for successful judicial education is premised on two central criteria, namely that judicial education needs to be judge-led and court-owned. The reasons given for these criteria are that:

- (1) the education programme retains its autonomy from the executive branch of government;
- (2) judge-led training ensures legitimacy and

- (3) sustainability is only possible if the training is presented within the justice system.

The LRG's programme differs from programmes in other countries in that the LRG is situated outside of the official justice system and is not staffed by judicial officers. In South Africa, the Department of Justice and Constitutional Affairs' institutionalised education programme for judicial officers is located at Justice College. The LRG is not affiliated with the department and is an independent donor-funded body located at the University of Cape Town. The LRG has enjoyed the unofficial support of senior people in the justice system but it does have official institutional endorsement.

Another difference between the LRG's programme and practices around the world is that it only targets magistrates (lower court officials). The majority of similar initiatives in other countries focus on the education and training of judges at all levels of the judicial system (Smith, 2004).

One of the critical elements identified for designing judicial education programmes is having a clear and persuasive purpose (Claxton, 1992). As discussed in the previous section, the articulated and explicit purpose (the documented goals and objectives) of the LRG's programme is broad and at times vague. The purpose most frequently cited in the programme's documentation states, "To contribute to the transformation of the judiciary through the development of magistrates able to integrate social context awareness in the judicial decision-making process" (Sardien, 2001, 2002, 2003, 2004, 2005). It is difficult to discern a persuasive purpose in the above quotation.

The LRG's documentation presents the programme's purpose as covering a number of diverse (but related) issues:

- "transformation of the judiciary" refers to organisational and institutional change;
- "the development of magistrates" refers to individual skills development;

- “judicial decision-making process” involves work competencies and performance-related issues;
- “social context awareness” is a broad catch-all phrase that covers an infinite array of contextual factors.

Perhaps the purpose of the training would be more persuasive if the training programme had clear, measurable objectives.

Research also indicates that best practices in judicial training should include learning materials and activities that encourage judicial officers to think in qualitatively richer ways; advance self-directed learning and critical self-reflection; teach knowledge required for the job and recent developments in law and create an integrated curriculum (Armytage, 2004; Claxton, 1992; Wangerin, 1988)

The LRG’s training materials vary in quality and scope. Many of the activities in the workshops consist of information-sharing sessions and some of the activities involve case analysis and problem-solving. These activities are aimed at challenging the way magistrates currently conduct themselves in their courts. They are also designed to encourage magistrates to take contextual issues into account and promote creative sentencing. In this way one could argue that the activities attempt to get magistrates to think in “qualitatively richer ways.” One of the factors that may inhibit this is the design and structure of the workshops and the time allocated to each activity. The workshops run over a weekend but ostensibly activities begin on Saturday morning and end before lunch on Sunday. From personal observation of a workshop, and after an analysis of the external evaluators’ reports, it seems time management is a consistent problem for the facilitators. A recurrent problem cited in numerous external evaluator reports is the compressing of activities due to limited time, which reduces opportunities for in-depth engagement with the various topics. Similarly, opportunities for critical self-reflection in this kind of workshop environment are limited.

The quality of the learning materials and activities differs from year to year and from workshop to workshop. In some cases there is an emphasis on active learning.

Active learning is encouraged by tasking magistrates to do “homework” assignments. These assignments generally involve getting magistrates to reflect on the learning material from the workshop and find ways of applying the learning in their work. The LRG’s records reflect some degree of follow-up on these “homework” assignments. This aspect of the programme relied on the commitment and enthusiasm of one or two trainers and was not rolled out as an integral part of the programme. The LRG has some records of a group (± 20) of magistrates that attempted to develop interventions in their communities around social context issues. These records demonstrate attempts at active and continuous self-managed learning but compared with the number of magistrates who went through the programme, this number is extremely small.

Is the programme logic feasible and plausible?

The feasibility and plausibility of the sequence linking or causal logic implied in the programme will be analysed by (1) a critical discussion of how key concepts are operationalised in the training and (2) examining the causal relationships implied in the programme with social psychological knowledge about the attitude behaviour relationship.

The issue of how the programme staff defines prejudice is relevant for this theory evaluation. If the conceptualisation of this central concept is problematic, it will be reflected in the training.

According to the programme documentation, the training intervention is designed to encourage magistrates to question their attitudes and evaluate their stereotypes. It is designed to raise their awareness of biased treatment or discriminatory practices in their court conduct and in the handling of complainants, defendants and witnesses. The training also aims at facilitating and supporting magistrates in shifting biased attitudes, which will accordingly bring about changes in their behaviour. While these are some of the broad aims of the programme stated in the documentation, definitions of these key concepts are few and far between.

The programme's documentation gives scant attention to how prejudice, discrimination or racism are defined or understood bar a relatively crude explanation related to (1) redressing past inequality and prejudicial treatment, and (2) discriminatory laws associated with the apartheid regime. For example, the targets of bias as defined in one workshop manual are as follows:

Judicial bias can operate in respect of any group but the more "different" the issue or the person is to the life experiences of the decision maker, the more likely it is that bias will be activated. The main 'differentiations' of power (and bias) are gender, race, age, sexual orientation, class – and particularly, intersections of these categories, for example, a black gay woman living in a very poor area. (Fedler & Olckers, 2001, p. 27)

The underlying principle of how the training can aid in the eradication of the bias mentioned in the above definition is the "principle of rendering visible" (Fedler & Olckers, 2001, p. 27).

The principle of rendering visible is about undoing the processes of marginalisation, silencing, and fracturing that occur in a formalist engagement with the law (Fedler & Olckers, 2001, p. 27).

Rendering visible, in practical terms, means encouraging magistrates to become aware of their stereotypes to ensure that these do not impact on their decision-making. The assumption here is that magistrates can be made aware of their prejudices and these can be changed during the workshop or intervention. This presents a problem when thinking about the dynamics of modern-day forms of prejudice and racism. Modern-day forms of prejudice and racism are discussed later in this chapter.

DISCUSSION

Are programme goals and objectives well defined?

When attempting to assess the LRG's programme goals, it is useful to compare them with those of similar programmes in other contexts. Research indicates that the central goal of social context education for judicial officers world-wide is to aid judges in their role of administering justice and to ensure that judges are deemed just in their decision-making (Armytage, 2004; Smith, 2004). An analysis of practice throughout the world indicates that social context education is aimed at assisting judges to:

- reach legally correct decisions on issues of discrimination or equality
- recognise areas where existing legal rules have the effect of creating or perpetuating inequality
- conduct proceedings in a manner that leaves both successful and unsuccessful litigants feeling that they have been respected and treated fairly
- avoid falling into error through operating on the basis of mistaken assumptions about human behaviour, motivation, expectations and needs
- avoid making statements or acting in a way that is inadvertently insulting or hurtful to litigants, witnesses or spectators
- avoid creating unnecessary controversy or attracting criticism of the judiciary (Smith, 2004, p.1)

The LRG's programme goals are similar to those outlined by Smith (2004). In both cases, the emphasis of the training is on ensuring impartiality in court conduct. Similarly there is a shared emphasis on preparing judicial officers for just decision-making. The concept of fairness underscores the goals in both scenarios.

The variety of vague objectives may be symptomatic of a historical conflict in the conceptualisation of the programme by its designers. Evaluability assessment interviews, with two of the designers of the programme, revealed a lack of clarity and consistency in terms of the conceptualisation of the programme.

The two key individuals (referred to as X and Y to preserve anonymity) involved in designing the intervention differed on where they believed the emphasis for the training should be. Y was of the opinion that the intervention needed to relate specifically to the content of law and how law is interpreted. In an in-depth interview with the evaluator, she commented that in her opinion there was not enough focus on actual law-specific issues in the training and training manuals. She acknowledged that this was a constant source of tension between her and one of the other designers (X) of the programme. This tension existed from the onset of the programme. Y left the development of the training intervention to X who had more experience in working with adult learners.

During an interview with X this conflict and tension became more apparent. X was of the opinion that the programme needed to focus on the deeper processes of individual transformation. X explained that she consulted experts in the field and others on the fundamental premises of social psychology and anti-bias training; she educated herself in the key theories and theorists in this area and the area of adult education, in anticipation of developing the intervention.

X concurred that the ideological difference between her and Y hindered the design and development of the intervention.

X's objectives were centred on working with magistrates' beliefs and attitudes towards different race and gender groups. Her focus was on anti-racism training, increasing self-awareness and querying deep-seated belief structures.

The ideological tensions between these two designers are reported to have deteriorated to the point that the relationship was terminated in the late 1990s. Perhaps the lack of resolution between the two instrumental role-players in the design of the programme contributed to the lack of clarity and definition in the programme's goals and objectives.

Is there alignment between the programme theory and a documented social need?

There is sufficient evidence (please see previous chapter) to demonstrate that the LRG's programme was developed in response to a legitimate social condition. The problem of racial and gender bias in the South African magisterial system has been identified by various and disparate constituencies.

How well does the programme theory compare with research and practice with regard to the design of the programme?

The results show that the LRG's programme differs from research and practice with regard to the design of similar interventions in other contexts. One of the major differences is that the LRG's programme does not fall within the formal judicial system.

Another factor impacting on the design of the programme was the relatively high turnover rate of LRG's staff between 1998 and 2004. This might have influenced the consistency of workshop design and delivery and potentially inhibited the development of an integrated curriculum.

The problem of curriculum design was further exacerbated by the lack of trained professional educators as members of staff. The Law Faculty, in which the LRG is housed, has promoted the hiring of lawyers or ex-magistrates as trainers over educationalists. The lack of adult educators and professional curriculum designers may have contributed to some of the limitations in the programme design and training materials.

Is the programme logic feasible and plausible?

Modern-day forms of prejudice and racism

The LRG's programme documentation does not offer an adequate operationalised definition of discrimination and racism. Similarly, the documentation defines racial bias according to traditional notions of racism.

What we know about modern-day racism is that it operates on two levels, the traditional blatant racism and the more subtle negative feelings of which the individual is unaware (Akrami, Ekehammar & Araya, 2000; Dovidio, 2001; McConahay, 1986; Meertens & Pettigrew, 2001; Sears, 1998). Research emanating from the USA suggests that in American society in general, it is not fashionable to be overtly racist (Krysan, 1998; McConahay & Hough, 1976). This does not mean, however, that racism and discrimination do not exist. It means that prevailing societal norms dissuade overt expressions of racism. These norms are promoted by legislation which make acts of discrimination illegal (Dovidio & Gaertner, 2000).

Similarly in South Africa over the last twelve years, the dominant societal norms have changed. Legislation prohibits discrimination in a variety of settings which curtail overt expressions of racism or other forms of discrimination. Again, this does not necessarily mean the eradication of racist attitudes, prejudice or discrimination but rather their overt expression in public spaces.

In a study that aimed at determining if subtle prejudice is in fact prejudice, Meertens and Pettigrew (1998) assess the relationship between subtle prejudice, blatant prejudice and political conservatism. They suggest that while subtle prejudice is distinct from blatant prejudice it is a by-product of the same entrenched societal norms. The major finding of the study is that subtle prejudice is a real and discreet form of prejudice. This supports the research of other theorists who advance theories of modern forms of racism like aversive racism (Dovidio & Gaertner, 1988; Frey & Gaertner, 1986; Gaertner & Dovidio, 1986, 1998), modern racism (McConahay,

1986; Pettigrew, 1998), impression management theory (Krysan, 1998) and symbolic racism (Sears, 1988, 1998).

All of these theories suggest that in societies where strong egalitarian norms are dominant, there appears to be a decrease in overt expressions of racism. This does not necessarily imply that racism per se has decreased; rather that how it is expressed has changed (Krysan, 1998).

There is ongoing research and theory development on these modern forms of racism and prejudice (Brown, 1995; Dovidio, 2001; Dovidio & Gaertner, 1991; Durrheim & Dixon, 2005; Meertens & Pettigrew, 1997; McConahay & Hough, 1976; Weigel & Howes, 1985). While the majority of this work has been conducted in the United States of America (USA) (Kinder, 1986; Dovidio & Gaertner, 2000; Sniderman & Tetlock, 1986), some of the general concepts may have bearing on the South African scenario (Durrheim & Dixon, 2005). Even if the research has limited reliability in our local context, it raises questions about the inadequacies of traditional approaches to understanding these concepts. The results of the research may have relevance for how we design interventions to manage racism and prejudice in organisational settings. Before exploring these inadequacies, the relationship between political orientation and forms of racism will be discussed.

Research indicates that political orientation is associated with different forms of racism (Dovidio & Gaertner, 1986, 1998; Meertens & Pettigrew, 1997; Nail, Harton & Decker, 2003). This research led to the development of an integrated model of racism (Dovidio & Gaertner, 1986, 1998).

The theory underlying the integrated model of racism (Dovidio & Gaertner, 1986; 1998) postulates that in spite of shifting societal norms in favour of equality and fairness, politically conservative individuals retain their private racist attitudes. These individuals have modified their behaviour in the public arena and generally desist from overt expressions of their private racist attitudes and beliefs (Nail, 1986; Nail et al., 2003).

The theory suggests that on the other end of the spectrum are individuals with a liberal political orientation. Liberal individuals espouse the values of egalitarianism and non-racism and have authentically internalised these values. Liberals generally consider themselves non-racist as they desire a society where equality, fairness and inclusivity are the norms. Research, however, has shown that many liberal individuals harbour suppressed negative emotions towards political minorities (Dovidio & Gaertner, 2000; Meertens & Pettigrew, 1997). There is considerable evidence suggesting that while liberals consciously and intellectually distance themselves from racist attitudes on a “more nonconscious-emotional level, they still possess certain negative race-based feelings.” (Nail et al., 2003, p.755). Frey and Gaertner (1986) suggest that this contradiction is borne out of the need to maintain an acceptable non-racist self-image. The contradiction has implications for inter-group behaviour as negative race-based feelings tend to result in individuals feeling uneasy when interacting with people from different races (Nail, et al.). This uneasiness tends to mar the quality of the inter-group interaction.

In the conceptualisation of aversive racism theory (Gaertner & Dovidio, 1986), racial bias is expressed in circuitous ways (often subtle and rationalised) that do not compromise the aversive racist’s egalitarian self-concept. Aversive racists, however, possess negative race-based feelings even if they are not aware of them. These negative feelings result in discriminatory practices where the bias is less obvious. Aversive racists use factors other than race, such as class, when attempting to rationalise these negative feelings (Dovidio & Gaertner, 1998, 2000; Gaertner & Dovidio, 1986).

It is hypothesised that the effects of aversive racism may be strongly associated with inter-group biases emanating from processes of social categorisation. The manifestation of these biases is typically characterised by in-group partiality and out-group vilification (Dovidio & Gaertner, 2000). An example of this is how individuals tend to judge the undesirable actions of out-group members more harshly than when the same actions are perpetrated by in-group members (Hewstone, 1990).

The consequences of aversive racism are also subtle but no less harmful (and perhaps even more so) to the target group than blatant (explicit) racism (Dovidio & Gaertner, 1998, 2000; Gaertner & Dovidio, 1986; Sears, 1988).

Implicit and explicit attitudes impact differently on an individual's behaviour (Dovidio & Fazio, 1992; Wilson et al., 2000). Explicit attitudes are associated with purposeful behaviours while implicit attitudes are associated with behaviours that are less obvious and more difficult to censor (for example, body language). The effects of modern and aversive racism often result in Whites and Blacks having diametrically opposed experiences in inter-racial interactions. Aversive racists, for example, who genuinely maintain that they are not prejudiced, will demonstrate this in the verbal content of their interactions with Blacks. Their conversations will portray their explicit egalitarian attitude and they will perceive themselves as making a sympathetic impression. This will reinforce their perceptions of themselves as non-racist (Dovidio, 2001). The effort expended in projecting a sympathetic impression may result in a strained and inauthentic interaction.

Dovidio (2001) suggests that in these interactions Blacks may experience both the professed positive attitude in the verbal content of the interaction and the implicit negative attitude in the non-verbal tone or delivery of the verbal content. Being attuned to these different levels of communication may leave Blacks less content with the inter-racial interaction relative to Whites (Devine, Evett & Vasquez-Suson, 1996; Dovidio, 2001; Vorauer & Kumhyr, 2001).

Research suggests that explicit attitudes can shift relatively easily compared with implicit attitudes (Dovidio, 2001). The implicit nature of subtle racism makes it difficult to recognise and hence difficult to confront and manage. Historical trends in anti-bias training, that rely on demonstrating the wickedness of prejudice and unlawfulness of discrimination, assume that racist attitudes are explicit and hence identifiable, accessible, controllable and essentially malleable. Traditional anti-bias training programmes therefore are not equipped to tackle these more modern manifestations of racism (Meertens & Pettigrew, 1997).

It is aversive racism that presents a problem for the programme logic. There are laws and organisational rules that attempt to curtail the expression of overt racism in the justice system, yet these rules do not preclude the expression of subtle racism. While the training attempts to raise magistrates' levels of consciousness about their stereotypes, biases and discriminatory practices, it is not structured around, or designed to penetrate, seemingly intractable, deep-seated, implicit attitudes. The training would perhaps be more effective if it focused on work-related behaviours that are deemed unacceptable. Studies have shown that liberals display less overt racism in situations where there are strong cues to behave in a non-discriminatory manner, and are more likely to express racist feelings when these cues are absent (Gaerten, 1973; Frey & Gaertner, 1986).

Training that attempts to establish and entrench strong institutional norms within the magistracy, and is directly linked to work-related performance measures, might be more effective in bringing about fairness in judicial decision-making and court conduct. Working on this level may prove more fruitful as opposed to attempting to shift attitudes that, according to some of the modern racism theories, people are not even aware of.

The modern racism concept highlights the incongruence between what people say they believe and their consequent behaviour and draws a distinction between explicit and implicit racism. This conceptualisation is based on the premise that prejudice cannot simply be understood as an attitude towards an attitude object (Eagly, 2004). This has serious implications for social context training. It begs the question: is the training intervention focused on the wrong target? Modern racism theories highlight the two levels at which prejudice operates. Developing a viable and effective training intervention would require working at these two levels.

One of the limitations with the impact theory underlying the LRG's social context programme is that it focuses on magistrates' explicit attitudes. It is directed at a subgroup of magistrates with explicit biases. It does not target individuals who harbour implicit race-based feelings. The outcome evaluation in Chapter Seven will explore whether or not the training has brought about worthwhile results for magistrates who

fall in the former sub-group. This evaluation of the LRG's programme impact theory suggests that the effectiveness of the training is limited to these individuals.

The causal logic of the impact theory suggests that the training will bring about change in magistrates' prejudicial attitudes which will in turn bring about changes in their behaviour. A further evaluation of this logic will focus on these assumptions about the attitude-behaviour relationship.

The attitude-behaviour relationship

The relationship between attitude and behaviour is complex and nuanced (Ajzen, 1985, 1987, 1988, 1991; Ajzen & Fishbein, 1980; Albarracin & Wyer, 2000; Bagozzi, 1992; Bohner & Wanke, 2004; Eagly & Chaiken, 1993; Eiser, 1994; Eiser & van der Pligt, 1988; Foster & Nel, 1991; Kraus, 1995). Historically there has been ongoing controversy about the causal links in this relationship. This section will explore some of the contemporary theoretical work in this area.

There are multiple definitions of the attitude concept reflecting a variety of perspectives on what constitutes an attitude, how it is structured, how it can and should be measured, how it relates to beliefs and impacts on behaviour. While there is widespread acceptance of the importance of the concept, there has always been disagreement around its definition (Foster & Nel, 1991). Eagly and Chaiken's (1993, p. 1) definition of attitude is used in this theory evaluation chapter: "Attitude is a psychological tendency that is expressed by evaluating a particular entity with some degree of favour or disfavour." Attitudes are generally defined as evaluative tendencies. This implies that an attitude is an evaluative condition that mediates between specific groups of stimuli and specific groups of responses (Bohner & Wanke, 2004; Eagly & Chaiken, 1993).

Since Allport's (1935) early assertions about the centrality of the attitude concept and its correlation with behaviour there have been significant debates in the field of social psychology about this causal relationship (Allport, 1935; Eisner, 1994; Bohner & Wanke, 2004).

A contemporary conceptualisation of the attitude-behaviour relationship posits that it can best be understood as a “substantive relationship of interest” (Kraus, 1995, p.71) which will vary in strength according to context and is influenced by a variety of variables. Modern theorists agree that there is no straightforward answer to the theoretically, and practically, complicated question: Does attitude predict future behaviour? (Bohner & Wanke, 2004; Eagly, 2004).

Since the 1960s there has been resurgent interest in the attitude construct and its relationship with behaviour. This relationship was challenged and refuted by authors like Deutscher (1966) and Wicker (1969) whose research demonstrated weak associations between the two variables. Recent meta-analytic studies seem to indicate that studies like the ones mentioned above did not disprove the attitude-behaviour relationship but rather used incorrect methods to attempt to test it (Kraus, 1995; Kim & Hunter, 1993). The weak associations have been attributed to a lack of compatibility between the attitude and behaviour measures used in a variety of studies (Bohner & Wanke, 2004). Evidence from these meta-analytic studies suggest that if attitude and behaviour are measured at corresponding levels of specificity, correlations will be high (Kraus; Kim & Hunter).

This issue of specificity has bearing on the design of the social context training intervention. If the action, target, context and time element impact on the predictive validity of the attitude-behaviour relationship, ideally they should be considered when designing an intervention that focuses on attitudes to bring about behaviour change. Attaining this level of specificity, however, may be extremely difficult in a training workshop setting where the *modus operandi* is presentations followed by discussions or case analysis. Acquiring a degree of specificity might also prove difficult in social context training due to the complex nature of the attitudes being scrutinised.

In social context training for magistrates, perhaps specificity could translate into identifying acceptable, desirable specific work behaviours and developing interventions around these. This could prove somewhat more effective than working at the level of vague and generalised personal attitudes. The challenge would be to document what kinds of behavioural competencies are associated with being a

magistrate in a transforming society and attempt to develop an intervention that trains magistrates in these competencies. One could argue that magistrates' personal attitudes are irrelevant to the job and it is their work performance that requires attention. If the organisation had a set of rules or standards against which work performance could be measured, one could design a more focused intervention. Due to the nature of the work, however, it is very difficult to define a set of standards for magistrates that will ensure individuals' biases do not impact on the rule of law.

Meta-analytic studies suggest that the scepticism of the 1960s, which questioned the existence of the attitude-behaviour relationship, was based on an incorrect perspective of behaviour as a criterion variable "...against which the validity of the attitude concept could be tested." (Kraus, 1995, p. 71). The scepticism was further fuelled by a number of studies which consistently failed to show significantly high correlations (Kraus, Kim & Hunter, 1993).

The results of a series of meta-analyses demonstrate that attitudes and behaviours are distinct concepts and that attitudes cannot be used as surrogate behaviour measures. Perhaps the most important finding of these studies is that attitude is not the sole determinant of behaviour (Kraus, 1995; Kim & Hunter, 1993).

There is general acceptance that a simple, linear, causal relationship between attitudes and behaviour does not exist (Eagly, 2004; Eagly & Chaiken, 1993). Contemporary theories, however, like the theory of reasoned action (TRA) (Ajzen & Fishbein, 1980; Fishbein & Ajzen, 1975), the theory of planned behaviour (TPB) (Ajzen & Madden, 1986), and the theory of trying (TT) (Bagozzi, 1992) have had some success in demonstrating how mediating and moderating variables influence the nature of the relationship. There is some supportive evidence for all three of the theories presented here, some more convincing than others (Bagozzi, 1992; Kim & Hunter, 1993). The theories are presented here to highlight the complex relationships between multiple intervening variables and the lack of clear causal links between attitude and behaviour.

The theory of reasoned action

The theory of reasoned action (TRA) (Ajzen & Fishbein, 1973, 1977, 1980) and the theory of planned behaviour (TPB) (Ajzen & Madden, 1986) are based on expectancy value-type models for explaining behaviour (attitude = sum of expectancy x value products) (Ajzen & Fishbein, 1980; Fishbein & Ajzen, 1975; Bagozzi, 1992; Bentler & Speckart, 1979). According to their conceptualisation a causal link between attitude and behaviour exists but is mediated via intervening variables.

The TRA deals with actions or behaviours that are under an individual's volitional control and the causal relationship implied in the TRA only applies to this set of behaviours (Ajzen, 1987). According to this theory an attitude must be understood in a particular context and behaviour is a consequence of rational will (Eisner, 1994).

As shown in Figure 7, according to the TRA behaviour is directly influenced by intention (a mindful choice to act in a particular way). Intention is regarded as a motivational variable and represents the amount of effortful action an individual is willing to exert in order to carry out a particular action (Ajzen, 1988; Ajzen & Fishbein, 1980; Liska, 1984). Since the development of the TRA numerous studies have demonstrated support for the hypothesised causal links between intention as a dependent variable and attitude towards the behaviour and social norms as independent variables (Ajzen, 1988; Ajzen & Fishbein, 1980). These studies have generally used multi linear regression measures to estimate the concurrent predictive power of both independent variables (Ajzen, 1988, Eisner, 1994).

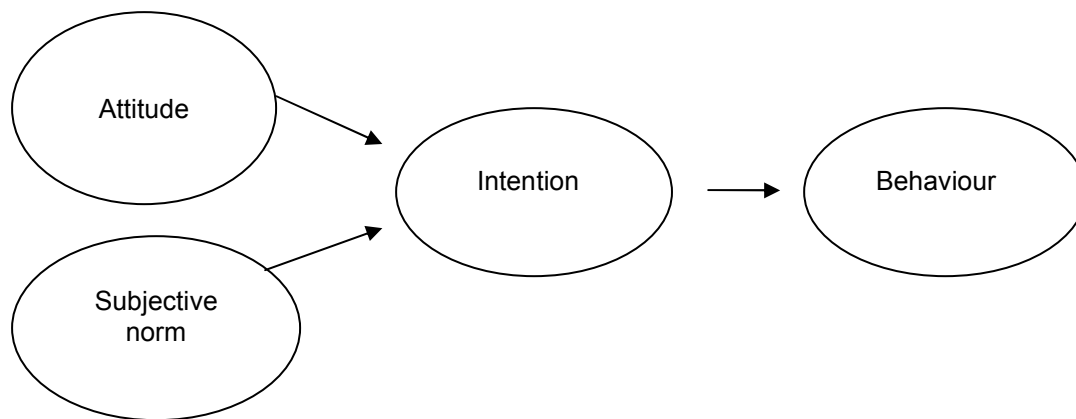


Figure 7. Theory of Reasoned Action

In this model, intention is the most direct predictor of behaviour (Webb & Sheeran, 2006). Attitude (about the behaviour) and social norms influence the development of a decision to act or intention. Attitudes are defined as a set of evaluative beliefs one holds about a specific behaviour. Subjective norm refers to the dominant standards of behaviour that are influential in one's social world (Miller, 2005). Intention is a function both of attitudes about the behaviour and of the social norm regarding the behaviour.

The value of this theory, and its confirmatory research, is the assertion that the articulation of intention to act is a far more accurate predictor (predictive validity being significantly greater) of actual behaviour than attitude.

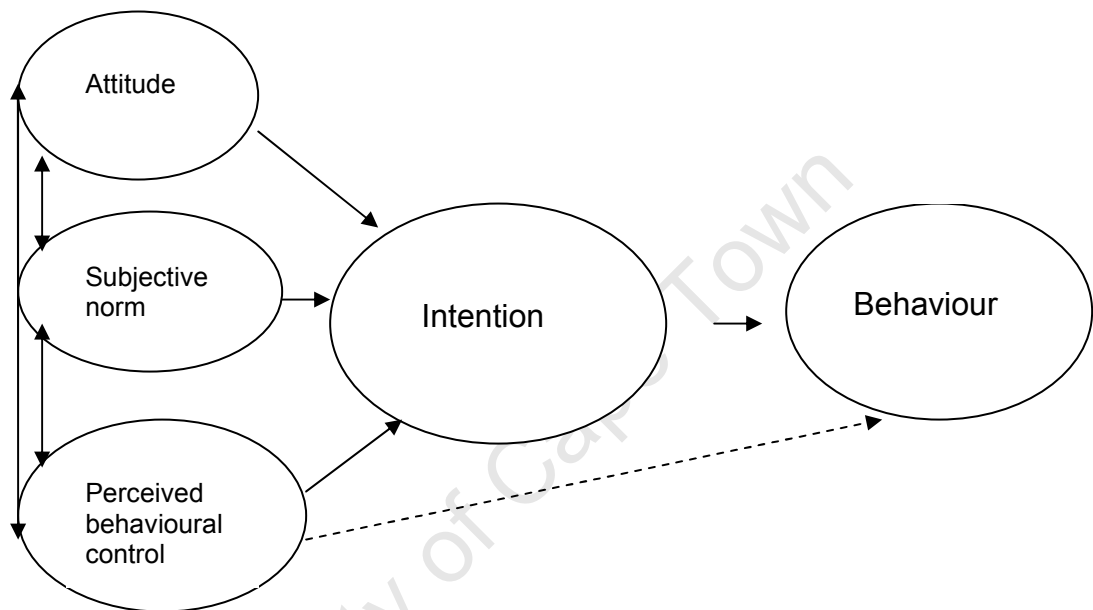
The TRA is limited, however, in that it only applies to attitudes and their relationship with behaviours under volitional control. The TPB was formulated in an attempt to make sense of the attitude-behaviour relationship in understanding actions which are not entirely under volitional control (Ajzen, 1985, 1987, 1988, 1991, Ajzen & Madden, 1986).

The theory of planned behaviour

The TPB introduces the additional antecedent, perceived behavioural control (PBC) into the model. PBC is understood as a belief about how simple or hard enacting the

behaviour is perceived to be. This concept has been compared in definition with the concept of self-efficacy (Bandura, 1977, 1982; Kraus, 1995). The comparison suggests that PBC is determined by *control beliefs* about an individual's ability to exercise control over the behaviour.

It is hypothesised that PBC predicts both behaviour and intention as illustrated in Figure 8.



**Figure 8. Theory of Planned Behaviour
(Version 1 without broken arrow, Version 2 with broken arrow)**

Figure 8 represents two versions of the same theory. In version 1 PBC is portrayed as a predictor of intention. An individual who does not believe he/she has the capacity (material or psychological) to act in a certain way is not likely to develop strong intentions to perform the given action. This holds true even if he/she holds a positive attitude towards the behaviour and recognises that it is socially desirable.

PBC is shown to correlate with attitude and subjective norm and to have an independent effect on intention (Ajzen & Madden, 1986). In this version of the theory intention predicts behaviour and PBC is directly related to intention and not behaviour.

In the second version of the theory, the theorists suggest that there could be a direct relationship between PBC and behaviour as illustrated by the broken arrow in Figure 8. Performing certain behaviour is dependent on (a) the motivation to perform and (b) whether or not the individual exercises control over behaviour. PBC is directly associated with behaviour in situations where PBC accurately mirrors actual control (Ajzen & Madden, 1986). There has been empirical support for the utility of PBC in predicting both behaviours and intentions (Ajzen, 1991; Armitage & Conner, 1999; Conner & Sparks, 1996; Godin & Kok, 1996; Sparks, 1994; van den Putte, 1991).

This theory could have useful application in the design of the LRG's social context training programme. The intervention may be enhanced if activities were developed that probed magistrates' motivation to perform differently in their jobs. Instead of solely focusing on their attitudes or promoting certain standards of behaviour, the training intervention could explore their willingness, mindfulness, readiness, and preparedness to do their jobs in a different way.

Perhaps the programme could be improved if it included activities which explored the extent to which magistrates experienced control over their behaviours compared with the extent to which they perceive their behaviour to be externally controlled. External control in this case could be historical institutionalised practices or structural constraints such as time and resource allocation. These activities could move the training beyond the purely subjective intra-personal realm of attitude and explore the environmental factors that promote or inhibit behavioural change.

The theory of trying

The Theory of Trying (Bagozzi, 1992) offers an additional lens through which one can view the attitude-behaviour relationship. It differs from the previous theories in its conceptualisation of behaviour and it is for this reason that it is included here. The TRA and TPB define behaviour as the performance of an action (i.e. the dependent variable) while the TT defines the dependent variable, trying, as more of a process than as a discernible distinct action (Bagozzi). Figure 9 illustrates this:

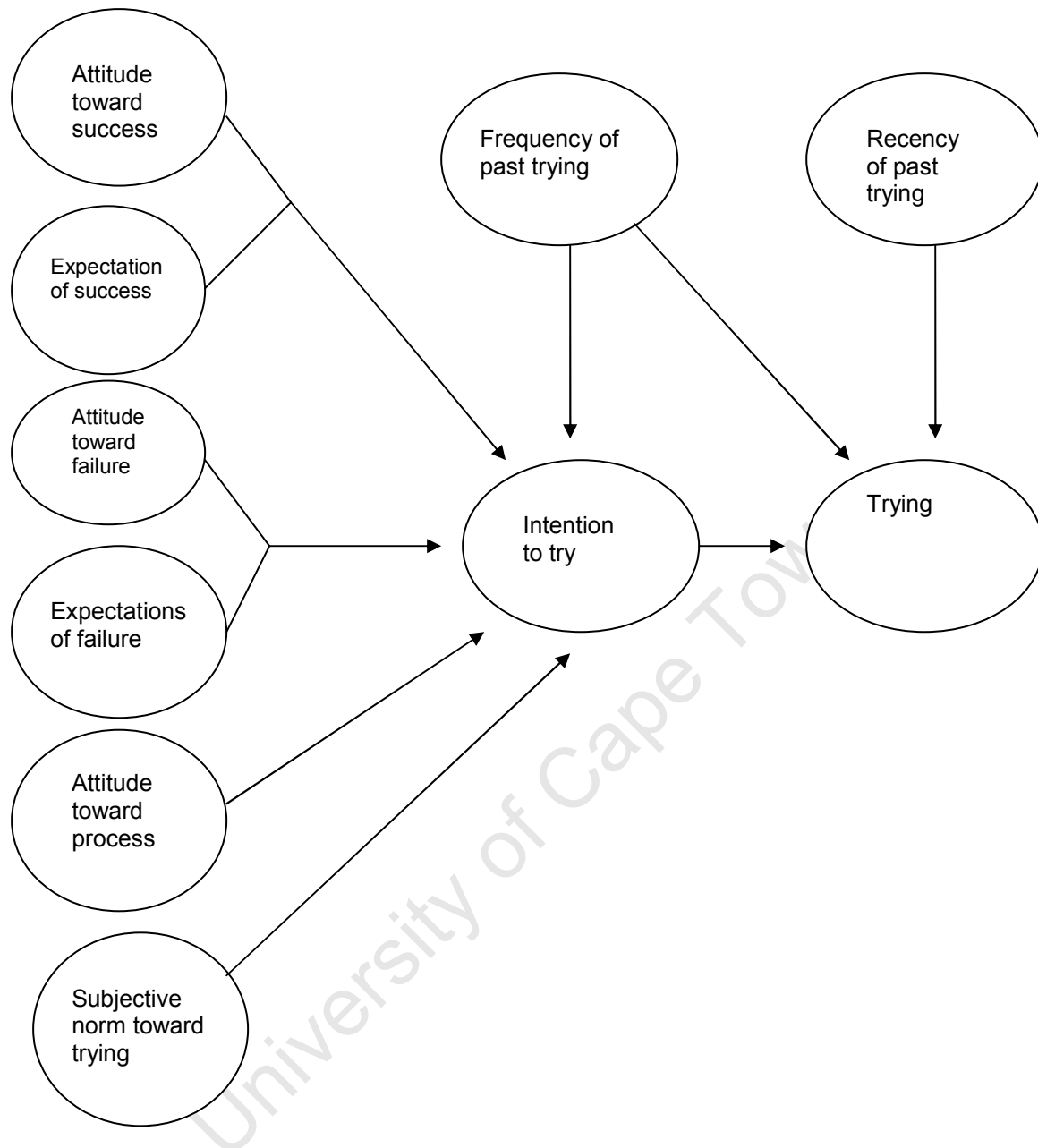


Figure 9. Theory of Trying

Behaviour in this model is conceptualised as the process of trying. It moves away from a single behaviour or action to incorporate the process of achieving an action or engaging in behaviour. Trying implies attempts made at goal achievement but does not imply the successful execution of the behaviour (Bagozzi, 1992).

There has been limited research into the verification of the TT (Eagly & Chaiken, 1993). It is included in this discussion as it introduces variables that are absent in the other two theories and underscores the process component in the relationship

between attitude and behaviour. Trying in this context can be understood as a process of reaching mindfulness. The TT highlights the processes of goal attainment as opposed to focusing on a specific behaviour outcome. It redefines the terms of the attitude-behaviour relationship by positing that the important relationship to focus on is between the variables of attitude and attempts at action.

Conclusion

All three theories have their critics and there is no end to the debate in the field of social psychology about the nature of the attitude and behaviour relationship (and relationship paths) (Eagly & Chaiken, 1993; Eisner & van der Pligt, 1988; Kippax & Crawford, 1997; Sutton, 1998; Trafimow & Duran, 1988; Webb & Sheeran, 2006). What is clear, however, is that a simple causal link between attitude and behaviour does not exist. The three theories illustrate some of the limitations of the causal relationship articulated in the programme logic model. They highlight the importance of the mediating variable of intention in the attitude-behaviour relationship. If the theories offer reliable explanations it would seem that the desired distal outcomes in the programme logic model are improbable. Even if the intervention is successful in increasing knowledge, and shifting attitudes, without attending to the issue of intent it is unlikely to result in the desired distal outcome of behaviour change.

While not reflected in the programme logic model, the LRG's training intervention advocates a strong social norm in favour of eradicating racial and gender bias in magistrates' courts. This norm is explicit in the South African Constitution and hence magistrates are obliged to uphold it. The training is endorsed by the Department of Justice and Constitutional Affairs and the various employee associations (JOASA ARMSA). Magistrates voluntarily attending the training are responding in some way to this social norm. Voluntarily attending training may demonstrate openness to social context education and be indicative of a relatively positive attitude towards the aims of the programme. This might suggest that if the programme logic incorporated

some of the other central components of the above theories, like intention, there would be greater likelihood of success in bringing about the desired outcomes.

The mediating and moderating variables in the various models would perhaps need to be integrated into the programme design to increase the probability of programme effects.

If intention is the fulcrum on which the attitude-behaviour relationship rests, it might be more expedient to design an intervention that focuses on promoting the development of intention or willingness to change. The training could include “homework” assignments that are designed to promote intention to change. The concept of “homework” assignments post-training was included in a limited number of workshops in the early days of the programme but not formalised into the design of the intervention. The aim of the assignments was to encourage magistrates to identify and become involved in community-based initiatives or court projects. These initiatives or projects would focus on increasing accessibility for the public to the courts or promoting some form of social awareness. A relatively informal system was set up whereby magistrates could provide feedback on the progress of these initiatives to the LRG and get assistance or advice from LRG personnel.

One way of promoting and supporting intention to change would be to formalise these kinds of post-workshop initiatives. Facilitators could help magistrates identify developmental areas or initiatives and establish simple monitoring systems to document their progress. Engaging magistrates in social context concerns outside of the training environment and supporting them in their attempts to transform their courts or court practices may increase the possibility that the training influences behaviour change.

The requirements for adjudicating in a democracy are that all people are treated equally by the law and no one is unfairly discriminated against by the courts. In order to ensure that the South African judiciary and justice system conform to these democratic principles the whole system has undergone a process of transformation. This process would have brought about changes in work practices and standards. Hence the impetus for individual level change may need to be located in the context

of the broader organisational system i.e. the whole justice system. The LRG's programme could be enhanced if instead of developing activities that focus on changing attitude at an intra-personal level programme designers develop activities that are directly aligned to organisational level performance demands.

If the programme designers consulted with management to identify desired work-based practices and performance standards, they could design activities that were better aligned with the day-to-day requirements of the job. Training could be designed to promote performance which is rewarded within the organisational system and improve poor performance which is sanctioned. This would require greater involvement by management in the identification of magistrates' training needs. It would also require in-depth consultation between the LRG and senior members of the magistracy.

Rossi et al. (2004) suggest that one of the most valuable contributions of assessing programme theory specifically and the evaluative process in general is assessing the alignment between the programme and the social problem it is designed to address. In this area the results of this theory evaluation (and those of the needs assessment in Chapter Four) suggest that the programme was developed in response to a documented social need. The results of the theory evaluation also point to areas within the programme that could be strengthened. These include identifying easily observable and measurable programme objectives, further delineating key programme concepts such as discrimination, prejudice and racism, and integrating and reflecting the complexities in the attitude-behaviour relationship in the programme's conceptualisation and design.

CHAPTER SIX

Assessing the Implementation of the LRG's Social Context Training Programme

An implementation evaluation investigates how effectively a programme is functioning and the quality of the service being delivered (Lipsey, 2007; Owen & Rogers, 2007; Rossi, Lipsey & Freeman, 2004, Schreirer, 1994). Implementation evaluations often take place as formative evaluations in order to generate helpful information for programme refinement and improvement (Chen, 2005; Bramley, 2006). In this case, the implementation evaluation results could produce useful information for the design and delivery of future programmes.

Programme evaluation theory suggests that in order for a programme to result in successful outcomes, it needs a realistic and feasible rationale or theory and a workable and working programme plan (Chen, 2005; Rossi et al., 2004; Weiss, 1998). The theory of the LRG's social context programme was explored in the previous chapter and the evaluation presented in this chapter focuses on the programme plan. The programme plan is the process element of the programme or the actual intervention.

Implementation evaluations are designed to assess programme fidelity (i.e. whether the programme was implemented as intended/according to its plan). Evaluations at the implementation level of the evaluation hierarchy attempt to address questions of delivery, organisational efficiency and service utilisation (Bliss & Emshoff, 2002; Rossi et al., 2004). Implementation evaluations generally focus on the programme as it is delivered, its activities, medium of instruction, resources and materials.

The first step in an implementation evaluation is developing an understanding of the programme's operating environment, which includes a description of the programme

and its procedures (Bliss & Emshoff, 2002). Part of this description is a service utilisation framework which is typically presented as a flow diagram. The service utilisation framework describes the intended services provided by the programme and the planned programme and target interaction (Rossi et al., 2004). The programme and target transactions are presented in Figure 10.

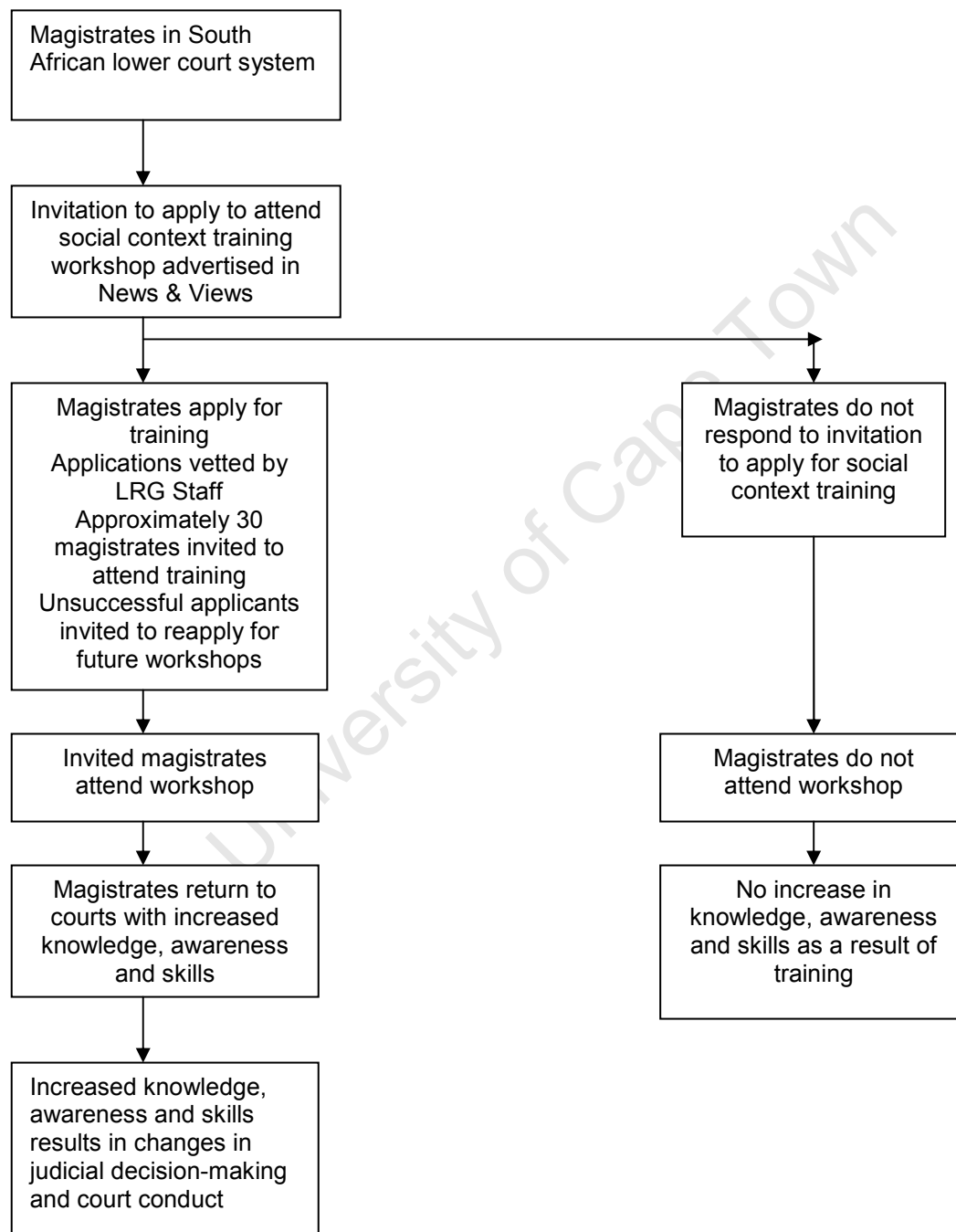


Figure 10. Service utilisation framework

Assessing service utilisation is a central component of an implementation assessment and is designed primarily to ascertain if the programme is being delivered to its target population (Rossi et al., 2004). This aspect of the process evaluation is guided by a series of evaluation questions aimed at establishing a profile of who the programme is reaching.

The following questions guided the evaluation of the programme's service utilisation:

1. How many magistrates received social context training?
2. Did sufficient numbers of magistrates attend the training?
3. Are there any attendance patterns?
4. Are there significant differences between magistrates attending training compared with magistrates not attending training?
5. Are there subgroups within the magistracy who are under-represented among those receiving the training?
6. Did participants attend all the training sessions?
7. Were magistrates aware of the training?

Alongside assessing service utilisation the second key task of a process evaluation is to assess how well the programme is being delivered. This aspect of the evaluation attempts to answer questions about the standard of organisational efficiency and the delivery of the training intervention (Rossi et al., 2004). It focuses on a variety of quality-related questions and in so doing, attempts to draw conclusions about the quality of the service being delivered.

The following questions guided the process evaluation of organisational efficiency and programme delivery:

1. What is the overall assessment of workshop delivery?
2. Are facilitators appropriately skilled to deliver social context training?
3. Are logistical arrangements well organised?
4. Are the various stages of the programme well planned, prepared and designed?

METHOD

Data Sources

The evaluation is based on data pertaining to the 26 social context workshops (focused on race and gender issues) that were conducted during 1998-2004. A full list of the records and documents accessed and consulted for this evaluation can be found in Appendix C

Data for the service utilisation evaluation were collected from attendance records for all 26 social context workshops. The evaluator accessed an official magistrate index database stored on the LRG's intra-net to verify the information on the attendance records.

Data for the evaluation of service delivery were collected via interviews with key stakeholders and from participant evaluations, external evaluator reports and attendance information.

The evaluator interviewed two programme designers, the LRG office manager and three LRG trainers.

Data were collected from the available 263 participant evaluation forms which related to 12 different workshops. Participant evaluation forms were not recorded or stored for the remaining 14 workshops. The data sets are incomplete, reflecting the different approaches to data management by the LRG staff over the years.

The LRG employed an external evaluator for each workshop. The evaluator was tasked with monitoring the workshop process, making process improvement suggestions during the workshop in facilitator discussions and writing a comprehensive evaluation report. The evaluator was able to locate external evaluator reports of 23 of the 26 workshops.

The external evaluator reports vary in length, content, style and level of detail. They range from three to fifteen pages. The LRG did not give specific instructions of what was expected of external evaluators when compiling the report, which might contribute to the lack of standardisation.

In general, the content of the reports follows these broad areas:

- Commentary on the success of the overall process
- Summary table of demographics of participants
- Analysis of participant evaluation forms
- Comments and feedback on facilitation skills
- Comments and feedback on logistical arrangements
- General and specific criticism of process-related issues
- Recommendations for future workshops

The various sources of data contain different kinds of information about the workshops. Where there are overlaps, multiple sources of information are used to answer the process-related questions. In some cases, single sources of data provide the answers. The sources of data are explicit in the presentation of the results.

By necessity data collected previously by the LRG Unit was used in this implementation evaluation. The evaluator has had to make inferences from this secondary data in order to answer some of the evaluation questions. The results of this implementation evaluation, therefore, cannot be read as conclusive or definitive. The results offer a summary of the trends in the secondary data used.

Procedure and materials

The first step in this implementation assessment was the interviews with the programme staff and other key stakeholders. These interviews took place between May and June 2006. The purpose of the interviews was for the evaluator to develop a sound understanding of the different facets of the intervention and establish the nature of the service utilisation and delivery data recorded and stored by the LRG.

The interview data was analysed according to the same qualitative data analysis process outlined in Chapter 4.

After the interview with the office manager, the evaluator was given relatively free access to the LRG's intra-net, in-house library, resource files and store-room. The office manager helped the evaluator locate the various documents required for this evaluation.

The evaluator began by sourcing attendance information for the service utilisation component of the evaluation. After the evaluator had collected and analysed this information, she initiated an examination of a variety of data sources to address the service delivery evaluation.

During the process of document analysis, the evaluator noted gaps and inconsistencies in the quality of the records. She also found variability in the form and structure of various data sources. For example, the examination of the participant evaluation forms revealed that there was little uniformity in style, structure or content amongst the forms. Only a small number of questions were repeated across the majority of forms. For the most part, the participant evaluation forms contained some questions that required quantitative responses (i.e. responses on five-point Likert scales) and some qualitative questions. The former generally pertained to logistical arrangements such as rating the venue. The evaluator identified common questions across forms and these were used in the analysis. The scale used for these questions was a five-point Likert scale where 1 = Poor; 2 = Fair; 3 = Good; 4 = Very Good; 5 = Excellent.

The external evaluator reports were analysed using a document analysis technique of sorting through the information and identifying patterns and themes in the content of the reports (Jonassen, Tessmer, & Hannum, 1999). The data presented in these reports has been summarised and reduced to answer the service delivery questions.

RESULTS

Service Utilisation

How many magistrates received the training?

According to the LRG's annual reports and funding documentation, 656 magistrates attended social context workshops focusing on race and gender issues during 1998-2004. Table 8 demonstrates yearly numbers and averages of attendees' in relation to the broader population of magistrates.

Table 8

Yearly Numbers of Workshop Attendees and Averages in Relation to Broader Population

	1998	1999	2000	2001	2002	2003	2004	Average
Total Population of magistrates	1516	Data missing	Data missing	1611	1784	1784	1822	1703
Attendance race and gender workshops	53	31	80	160	224	57	51	94
Percentage of magistrate population	3.4%	Data missing	Data missing	9.9%	12.6%	7.3%	2.8%	5.5% *

Note: Average yearly attendance rate (94/1703)

While the above percentages are illustrative of the numbers of magistrates receiving the intervention in relation to the target population, the actual numbers in Table 8 conflict with an analysis of the LRG's attendance records and an official magistrate index database. This database is located on the LRG's intra-net but regularly maintained by the Magistrate's Commission. Information for the database is gathered from employment records and directly from magistrates. It must be noted that in some cases, demographic information is missing (unspecified) as employees of the Department of Justice and Constitutional Affairs can decline to submit demographic details pertaining to apartheid classification schemes.

This database contains details of all magistrates and includes information as to how many, and which, workshops they have attended. The database also contains information about the demographics of the attendees. According to the attendance records and the database, 526 magistrates attended social context workshops focusing on race and gender between 1998 and 2004. This is the figure used to assess service utilisation as it is derived from two independent sources and these sources concur.

Did sufficient numbers of magistrates attend the training?

The analysis of the database shows that of the 1235 members of the magistracy who attended one of the LRG's workshops during 1994-2004, 526 (43%) members have attended race- and gender-related workshops.

Are there any attendance patterns?

The information on the database indicates that of the 526 magistrates who attended the workshops, 198 (37.6%) were Black, 125 (23.8%) were White, 39 (7.5%) were Coloured, 34 (6.5%) were Indian and 130 (24.8%) did not specify their race.

Of the 526 attendees 335 (63%) were male, 189 (36.1%) were female and two individuals did not specify their gender.

The group of attendees was made up of 121 (23%) English speakers, 87 (16.5%) Afrikaans speakers, and 14 (2.7%) African-language speakers. More than half of attendees, 304 (57%), declined to specify their home language.

There were attendees from all the provinces in South Africa. There were 108 (20.4%) from Gauteng, 94 (17.9%) from the Western Cape, 88 (16.7%) from the Eastern Cape, 88 (16.7%) from KwaZulu-Natal, 47 (8.9%) from Limpopo, 37 (7%) from the Free State, 25 (4.8%) from North West, 12 (2.3%) from the Northern Cape,

11 (2.1%) from Mpumalanga and 16 (3%) did not specify which province they came from.

A breakdown of the attendees' rank shows that of the 526 attendees, 288 (54.5%) were district court magistrates, 124 (23.6%) were regional magistrates, 27 (5.1%) were senior magistrates, 3 (0.6%) were regional court presidents, 8 (1.5%) were chief magistrates and 76 attendees did not specify their rank.

Tables 9 and 10 present the demographics of the attendees in relation to the number of workshops attended.

Table 9

Racial Breakdown of Attendees and Number of Workshops Attended

Number of Workshops attended	Black	Coloured	Indian	White	Race Unspecified	Total
1	119 (60%)	21(54%)	15 (44%)	83 (66%)	111 (85%)	349(66%)
2	58 (29%)	7(18%)	11(32%)	23 (18%)	13 (10%)	112(21%)
3	13 (7%)	2 (5%)	5 (15%)	9 (7%)	4 (3%)	33(6%)
4	11 (6%)	13 (13%)	3 (9%)	14 (11%)	20 (15.38%)	61(12%)
Total	198	39	34	125	130	526

The association between race and number of workshops attended was found to be highly significant ($\chi^2 = 24.9$ df = 4, p = 0.0001). This association appears to stem from two sources:

- (1) the high percentage of unspecified race attending one workshop (85%)
- (2) the higher tendency of Black magistrates to attend two workshops as opposed to one workshop when compared with the attendance patterns of White magistrates.

Table 10 presents the gender breakdown of attendees by the number of workshops attended.

Table 10

Gender Breakdown of Attendees and Number of Workshops Attended

Number of workshops attended	Male	Female	Total
1	239 (71%)	109 (58%)	348 (66%)
2	69 (21%)	42 (22%)	111 (21%)
3	10 (3%)	23 (12%)	33 (13%)
4	17 (5%)	15 (8%)	32 (6%)
Total	335	189	524

Gender and number of workshops attended is significantly associated ($\chi^2 = 24.5$ df = 2, $p = 0.001$). Females attended a higher number of workshops than males.

Table 11 reflects the occupational class breakdown of attendees and the number of workshops attended.

Table 11

Occupational Class Breakdown of Attendees and Number of Workshops Attended

Number of workshops Attended	Magistrate	Regional magistrate	Senior Magistrate	Regional Court President	Chief magistrate	Un-specified	Total
1	212 (74%)	73 (58%)	20 (74%)	1 (33%)	4 (50%)	39 (51%)	349 (66%)
2	56 (19%)	30 (24%)	7 (26%)	1 (33%)	2 (25%)	16 (21%)	112 (21%)
3	13 (5%)	9 (7%)	0	1 (33%)	2 (25%)	8 (11%)	33 (6%)
4	7 (2%)	12 (10%)	0	0	0	13 (17%)	32 (6%)
Total	288	124	27	3	8	76	526

Occupational class and number of workshops attended is significantly associated ($\chi^2 = 48.37$ df = 15, $p = 0.001$). Magistrates constitute the highest number of attendees while Regional Court Presidents, Chief Magistrates and Senior Magistrates make up the lowest number of attendees. This association must be read with caution due to the low cell sizes.

Table 12 presents a breakdown of attendance patterns per province.

Table 12

Province Breakdown of Attendees and Number of Workshops Attended

Number of workshops attended	Western Cape	Gauteng	Eastern Cape	North West	Free State	Kwa-Zulu Natal	Northern Cape	Mpumalanga	Limpopo	Un*	Total
1	46 (49%)	69 (64%)	69 (78%)	19 (76%)	31 (84%)	53 (60%)	11 (92%)	7 (64%)	29 (62%)	15 (94%)	349 (66%)
2	27 (29%)	18 (17%)	13 (15%)	4 (16%)	5 (14%)	25 (28%)	2 (8%)	3 (27%)	15 (32%)	1 (6%)	112 (21%)
3	12 (13%)	7 (6%)	3 (3%)	1 (4%)	0	8 (9%)	0	1 (9%)	1 (2%)	0	33 (6%)
4	9 (10%)	14 (13%)	3 (3%)	1 (4%)	1 (3%)	2 (2%)	0	0	2 (4%)	0	32 (6%)
Total	94	108	88	25	37	88	12	11	47	16	526

Note: Un = Unspecified

Province and number of workshops attended is significantly associated ($\chi^2 = 57.3$ df = 27, $p = 0.001$). Magistrates in Eastern Cape, North West Province, Free State, and Northern Cape tended to attend only one workshop. Magistrates from Gauteng, KZN, Mpumalanga and Limpopo showed a greater tendency to attend multiple workshops and magistrates from the Western Cape appear to attend the most workshops.

Are there significant differences between magistrates attending training compared with magistrates not attending training?

A Test of Proportions was conducted to assess whether or not there is a difference in the gender profile of individuals participating in the training and those not attending. The test indicated that there is a difference in the gender profile of attendees compared with the gender profile of the magisterial population

($p = 0.0022$). Men are slightly under-represented in the sample compared with the population and women are over-represented. The gender profile of magistrates attending training is not representative of the population of magistrates in 2004.

A Goodness-of-Fit test showed that there is a difference in the race profile of the population of magistrates compared with the sample ($\chi^2 = 55$, df 4, $p < 0.0001$). The test results indicate that Whites are less represented in workshops than in the broader magistrate population. All other races are over-represented, with Coloureds being the most over-represented group.

Are there subgroups within the magistracy who are under-represented among those receiving the training?

The LRG's philosophy is to work only with members of the magistracy who want to attend the programme. The LRG's documentation explains that personal transformation cannot be imposed; it must be actively sought out. Attendance of the programme is voluntary. If there is under-representation of any group it is a function of who volunteers or accepts invitations to participate as opposed to any systematic bias in the LRG's selection processes.

Did participants attend all the training activities?

The evaluator could not find any documented evidence to answer this question but in interviews with programme staff and having attended and observed four workshops, it appears that the majority of participants attended all the training sessions. The three LRG trainers interviewed concurred that on the whole, participants appeared to take the process seriously and the majority attended all sessions and activities.

Magistrates are generally a compliant bunch, they attended all the sessions and while their levels of participation may have varied we didn't have problems with attendance. (LRG trainer 1)

On the odd occasion some magistrates would struggle to make the first activity on Sunday morning but on the whole we didn't have a problem with attendance. (LRG trainer 3)

There is no mention of participants failing to attend sessions in any of the external evaluator reports.

Were magistrates aware of the training?

Magistrates were aware of the training. They are informed of training opportunities through News & Views for Magistrates, a quarterly magazine published by the LRG, by word-of-mouth and through chief magistrates in their regions. They were also alerted to the invitation to apply to attend the training via the two employee associations (ARMSA and JOASA).

Service delivery

The quantitative data in the participant evaluation forms were analysed by counting frequencies of responses, the results are presented as frequencies and percentages. The qualitative data were analysed by counting the frequencies of specific comments to questions. If a comment is made in 40% or more of the forms it is included as a result of the data analysis process.

The data in the external evaluator reports were analysed according to the evaluation questions. These questions provided a scheme for reducing the data. The evaluator worked through the 23 external evaluation reports and recorded extracts from the reports pertaining to the evaluation questions. Using computer functionality, the data were organised according to patterns or repetitions in the data on a Microsoft Office Excel 2007 spreadsheet. The data in at least eight reports had to be analogous for the information to constitute a result. Selected extracts from the reports are presented as evidence of the results of the analysis.

What is the overall assessment of workshop delivery?

Despite the varied format and differences in the participant evaluation forms, they all contained a question asking participants whether they would recommend the workshop to colleagues. An affirmative answer was interpreted as evidence of a positive overall impression of the workshop. Of the 47 attendees who responded to this question, 45 (96%) responded yes and 2 (4%) responded no.

The majority of reports (20/23) commended the LRG, the workshop developers and the facilitators for identifying pertinent social context issues and understanding the needs of the magistracy and by so doing, demonstrating commitment to the transformation of the judiciary. These reports suggest a favourable assessment of the workshop delivery.

The workshop contributed towards raising the awareness of how the magistrates could be more effective in their delivery of justice by considering the opportunities to apply some of the social context principles. This was considered and debated throughout the group and plenary discussions (External evaluator's report 7, KwaZulu-Natal Midlands, 20 – 22 April 2001, p.1).

I would at the outset like to state that I think that the workshop was an overall success. The participants gained an enormous amount both from the exposure to the materials and the group interaction...This 2001 workshop reflected a level of professionalism and commitment that is very impressive (External evaluator's report 8, Northern Province, 15 -17 June 2001, p.1).

The Gender Workshop held for magistrates at Shangri La, Nylstroom Limpopo from the 11th –13th September was excellent. It was well designed in terms of the progression of the concepts and the flow of the

activities: from personal experience to social analysis and relevance in work context (External evaluator's report 15, Nylstroom Limpopo, 11-13 September 2002, p.1).

Overall, the workshop was successful in achieving not only the stated objectives but also in helping create changes in the relationship between judicial officers (External evaluator's report 13, Muldersdrift Gauteng, 1-9 June 2002, p.13).

Of the 23 evaluators' reports analysed 12 evaluators recorded the fact that participants consistently praised the workshops and expressed their appreciation for the valued input they received.

The overall goals of the workshop were met. The participants consistently spoke of how much they appreciated and valued the input (External evaluator's report 8, KwaZulu- Natal Midlands, 20 – 22 April 2001, p1).

The evaluation forms, which were completed by the participants, indicated that they felt that the overall structure and content of the workshop was effective. There was an overwhelming sense that social context training was critical in order to create legitimacy and acceptance of the sentences passed down in the courts. Many raised the view that this training would assist in encouraging magistrates to become more sensitive to the differing backgrounds and experiences of the communities to whom they deliver justice (External evaluator's report 6, Cape Town Western Cape, 23 – 25 March 2001, p.3).

Everybody's expectations were met and exceeded...All 24 participants would recommend this workshop to their colleagues and their comments

were unambiguously positive (External evaluator's report 21, Water-Boven Mpumalanga, 6 – 8 June 2003, p. 2).

Of 26 returns, each one said they would recommend this workshop to their colleagues and many recommended that LRG run more of these workshops for other magistrates, regional magistrates and particularly top management (External evaluator's report 15, Nylstroom Limpopo, 11-13 October 2002, p. 2).

Are facilitators appropriately skilled?

All of the participant evaluation forms contained a question asking participants to rate the facilitators' presentation skills. Of the 198 recorded responses to this question, 174 (88%) participants rated the facilitators' skills as very good or excellent, 23 (11%) rated them as good, 2 (1%) rated them as fair and there were no poor ratings.

Unlike the participant evaluations, the external evaluators' forms present a mixed response to the above question. Without exception, all 23 reports commented on some positive aspects of the general facilitation.

Presentation and facilitation skills are of a high standard (External evaluator's report 1, North West Province, 25-27 July 1999, p.2).

The facilitation of the workshop was well done (External evaluator's report 15, Nylstroom Limpopo, 11-13 September 2002, p.1).

The careful, sequential layout of the programme, coupled with the smooth movement from one facilitator to the next, assisted the participants in seeing the workshop as a complete educational event

rather than pieces of information on the same subject (External evaluator's report 16, Eastern Cape, 1-3 November 2002, p.2).

There was some criticism in twelve of the external evaluator's reports of individual facilitators. These focused predominantly on individuals dominating discussion and not maintaining professional standards.

Facilitators' must be committed to a sense of professionalism at all times (External evaluator's report 2, Knysna Western Cape, 20 - 22 October 2000, p.9).

More personal preparation needed to ensure a professional standard of facilitation. For each session in which they are involved, facilitators should go through the facilitator pack and participant workbook and make notes. These notes should be used during the session. Page numbers of references and readings should be on hand. One should not be looking these up as one is presenting (External evaluator's report 12, Pietersburg-Polokwane Limpopo, 10 - 12 May 2002, p.14).

A frequent occurrence that was very distracting was the LRG facilitators were having side conversations with each other while either other facilitators or participants were talking (External evaluator's report 18, Mpumalanga, 7-9 February 2003, p.2).

Some facilitators need to be careful that they facilitate and not dominate the discussions (External evaluator's report 20, Wintershoek Northern Cape, 7-9 May 2003, p.7).

All 23 external evaluator reports indicated that the facilitators demonstrated appropriate skill in delivering social context training.

Much of the success was due to the skills of the LRG facilitators who created an environment of support, comfort and non-judgement for the participants (External evaluator's report 8, Northern Province, 15 - 17 June 2001, p.1).

It is obvious that the facilitators are experienced and knowledgeable in terms of their role as adult educators and regarding their understanding of the subject matter...The attention to detail and process in the planning of the materials is reflective of a deep understanding of the subject matter and a valuable skill of the materials developer and curriculum designer...Their openness to feedback during review sessions throughout the weekend reflects a professionalism and dedication to the process as well as their own learning and development (External evaluator's report 19, Ceres Western Cape, 11-13 April 2003, p.19).

In 14 reports the external evaluator commented separately on the facilitation skills of LRG staff and the magistrate facilitators. In these reports, magistrate facilitators were commended for their ability to use, and integrate, appropriate legal examples when discussing social context issues and for relating theory back to recognisable examples.

It is a noteworthy achievement that the magistrate facilitators, who have no background in adult education, are comfortable with using interactive methods of learning and teaching. They see colleagues as resources and not threats and they understand the meaning of 'facilitation' and seldom use a didactic approach. They are able to relate the training material directly to their work. The skills and attitudes of the magistrate facilitators is testimony to the hard work and careful support and training

they have been given by LRG staff (External evaluator's report 10, KwaZulu Natal, 24-26 August 2001, p.1).

The efforts of the magistrate facilitators are to be commended. They displayed a well-developed sense of facilitation. Their approach in presenting their sessions was calm and informed (External evaluator's report 19, Ceres Western Cape, 11-13 April 2003, p.19).

So the magistrate facilitators deserve full congratulations. Under the lead facilitator's guidance they managed aspects of each session and acted as resource people for further discussions during meal and evening times. They gave clear instructions, provided informative input, and sensitively facilitated the discussions (External evaluator report 21, Mpumalanga, 6-8 June 2003, p.1).

How well did the facilitators work as a group?

In 12 reports, external evaluators commend the team work of the facilitators and comment on their cohesiveness.

From the beginning to the end of the workshop the facilitators came across as a cohesive team rather than various components of a whole. They worked together well and managed to gain the respect and cooperation of the participants...Great initiative was displayed by sensing the mood / energy of the group, and responding appropriately (External evaluator's report 16, Eastern Cape, 1-3 November 2002, p.2).

The facilitation team worked extremely well together and the experience seemed beneficial to all concerned (External evaluator report 10, KwaZulu Natal, 24-26 August 2000, p. 1).

Are logistical arrangements well organised?

Most of the participant evaluation forms included a question relating to the participants' overall experience of the logistical arrangements. Of the 140 participants who responded to this question, 125 (89%) rated the organisation of the logical arrangements as very good or excellent, 13 (9%) rated them good and 2 (1.4%) rated them as poor.

All the external evaluators' reports indicate that the overall logistical arrangements were well organised.

The logistical arrangements were handled well (External evaluator's report 7, KwaZulu-Natal Midlands, 20-22 April 2001, p.3).

The overall arrangements and logistics were handled extremely well. (External evaluator's report 6, Cape Town Western Cape, 23-25 March 2001, p. 4).

It is clear that enormous planning, time, energy and effort was spent in ensuring that events flowed as smoothly as they did. Flight / travel arrangements, booking and checking of accommodation, details regarding claim forms, prepared lists and name-tags of participants, arranging for the setting up of audio-visual equipment, provision of directional maps to the venue, ...all of these point to a thoroughly planned event. (External evaluator's report 16, Eastern Cape, 1-3 November 2002, p. 3).

The analysis of the external evaluators' reports (15/23) indicates that the venues were well suited for the accommodation needs of the participants. They offered comfortable, spacious, clean and well-equipped accommodation.

The chosen venue was the ideal setting for focused, undisturbed work in a peaceful and safe setting. (Evaluator's report 19, Ceres Western Cape, 11-13 April 2003, p.19).

The venue was beautiful with delicious meals. (External evaluator's report 21, Mpumalanga, 6-8 June 2003, p.1).

The Pietersburg Protea Ranch Hotel seemed to fit the requirements for many people on the course from the following aspects. It was accessible for many of the participants...The training venue was large and comfortable and training resources were appropriate. Outdoor areas for working were also attractive. (External evaluator's report 12, Pietersburg-Polokwane, 8-10 February 2002, p. 12).

I felt that the hotel was an excellent choice of venue. The setting was magnificent. Distances between the various facilities used was easy, and outside seating was available. (External evaluator's report,3, Coffee Bay Eastern Cape, 12-14 May 2000).

While the analysis confirmed that the logistical arrangements of the workshops were well organised, one suggestion was made in eight of the 23 reports. The suggestion that emerged was that lead facilitators (LRG workshop coordinators) should not be responsible for the administration and the logistical organisation surrounding the workshop. The lead facilitator carries responsibility for the workshop in its entirety

and some evaluators felt that they were distracted from their core business, that of training, due to the administrative tasks of managing logistical arrangements.

The chief facilitator is the manager of the workshop. This means that he/she needs to take overall responsibility for what happens and is the conductor of event but should not be involved in the administrative functions. The LRG should organise one of their administrative personnel to perform this function (External evaluator's report 22, Limpopo, 12-14 March 2004, p.11).

A range of quite significant problems arose during the workshop. The lead facilitator spent a great deal of time speaking to management and trying to organise changes. He was also responsible for planning and administering all logistical arrangements beforehand. It might be more cost and time effective if an administrator was charged with the responsibility for this, which would free the workshop co-ordinator to concentrate on the not inconsiderable task of organising the content, design and facilitation of the workshop (External evaluator's report 10, KwaZulu Natal, 24-26 August 2000, p. 3).

I strongly recommend that a separate person take charge of the logistical and domestic issues (External evaluator's report 4, Pietersburg Limpopo, 4-6 August 2000, p.6).

Are the various stages of the programme well planned, prepared and designed?

All of the external evaluators' reports contained positive comments about the planning and preparation that went into the workshops and their resource material.

It was evident that much effort had been put into the preparation and planning of the workshop in terms of the content. All the facilitators had

a good understanding of their roles and expectations in the weekend process...The prepared and uniform approach to the slides for the workshop was excellent (External evaluator's report 6, Cape Town Western Cape, 23 – 25 March 2001, p. 4).

I was once again impressed by all the hard work and planning that went into this workshop (External evaluator's report 20, Northern Cape, 7-9 May 2003, p.12).

The analysis of the reports suggested that for all the workshops, the required preliminary work regarding the facilitator and participant manuals, visual aids, workshop tools and exercises was well organised.

In 13 reports, external evaluators commented that the workshops were too heavily loaded and that the number of activities should be reduced.

My view remains that the programme is too loaded for two days and places much pressure on the organisers and facilitators (External evaluator's report 20, Wintershoek Northern Cape, 7-9 May 2003, p 13).

Time becomes a serious problem when trying to deal with an issue as important and as vast as looking at one's work and oneself in relation to the social context. The workshop is only a day and a half - 12 hours at the most (External evaluator's report 23, Eastern Cape, 26-28 March 2004, p. 4).

There was a sense that the Saturday was too crammed (External evaluator's report 19, Ceres Western Cape 11-13 April 2003, p. 2).

The workshop was short – one and a half days – which was both its strength and its weakness. Its strength, because it left everybody stimulated and wanting more... Its weakness, because issues could not be explored fully, the gender analysis and work-related gender concerns could not be interrogated, and possibilities for further action were mentioned but not planned. (External evaluator's report 15, Nylstroom Limpopo, 11-13 October 2002, p.2).

There was also a suggestion that a mandatory follow-up workshop be delivered to maximise learning outcomes.

The social context workshops are often the first exposure that magistrates have that challenges their ways of working within the judicial system... One workshop is clearly insufficient to achieve the desired outcomes... A follow up session will create more space to support magistrates... and to assist them through this transformation process (External evaluator's report 4, Pietersburg Limpopo, 4-6 August 2000, p.4).

The workshop succeeded in raising sensitive gender issues, but more follow-up work needs to be done to lift the level of engagement of males and females. (External evaluator's report 23, Eastern Cape 26-28 March 2004, p 9).

Of the 143 participants who responded to the question, "*Did you find the information presented in the workbooks helpful?*", all 143 (100%) participants responded yes.

All 23 external evaluators considered the resource material (facilitator and participants' workbooks) professionally presented. The materials were considered user-friendly, clear, and accessible for second- or third-language English speakers, stimulating and appropriate.

The extensive and thoughtful work put into preparing both the Facilitators' Guide and Participant's Workbook is commendable and reflects the programme developer's contextual understanding of the subject matter...The Participant's Workbook is user - friendly with space for making notes...Language used is simple and clear, which is a vital element when "workshopping" with participants for whom, in some instances, English is not a first language...The additional reading material is interesting, useful, thought-provoking and pertinent to the content (External evaluators' report 19 Cape Town Western Cape, 11-13 April 2003, p. 3).

The content of the workshop materials was excellent (External evaluator's report 22, Limpopo 12-14 March 2004, p. 17).

The resource material (Participant's Workbook) was well prepared and professionally presented. In addition to containing all the exercises, it also provides relevant additional reading material for participants to broaden their understanding of the implications of domestic violence (Extract from external evaluator's report 16, Eastern Cape, 1-3 November 2002, p.2).

The written materials were accessible to participants and provided the reader with an understanding of the activities and expectation of the workshop (External evaluator's report 13, Muldersdrift Gauteng, 7-9 June 2002, p.2).

Is the quality of the workshops the same across sites?

The data contained in the 263 participant evaluation forms across the 12 workshops were similar. A comparative analysis of the participant evaluation forms did not reveal any differences in the rating patterns.

The evidence from 12 external evaluator reports suggests that the workshops improved with time. While the overall assessments of the workshops in these twelve reports were positive, they also contain data which suggests that process improvements based on previous evaluations were implemented to enhance the quality of the intervention. These twelve reports were compiled by three evaluators. External evaluator 2 assessed six different workshops during 2000-2001, external evaluator 8 assessed four workshops during 2001-2004 and external evaluator 10 assessed two workshops during 2001-2002. Unlike the other evaluators who produced once-off assessments, these three evaluators were able to compare the quality of the workshops across sites.

This is the second conference that I have attended and evaluated. The overall conference was a marked improvement on the previous one and it was clear that attention had been given to ensure that the recommendations made previously, were acted upon (External evaluator 2, Knysna Western Cape, 20-22 October 2000, p.1).

This is the second social context training for magistrates' course that I have had the privilege of evaluating. As was the case previously, I found the workshop both stimulating and exciting. Most notable is the commitment of the co-ordinator to ensuring that the workshops remain dynamic and relevant. Through a comparison with my first experience, and through speaking to all facilitators, it is evident that the content, materials, facilitation and methods are continually changed, transformed and/or adapted in response to feedback (both from evaluators and

participants) and to suit the context in which they are delivered. It is commendable that the design and presentation of the workshops are always seen as part of an ongoing and challenging process, and never a neatly wrapped finished product. For me this marks the difference between education and training (external evaluator 10, KwaZulu Natal 24-26 August 2001, p.1).

DISCUSSION

Service utilisation

In evaluating service utilisation, one is assessing the extent to which the target population used the programme (Rossi et al., 2004). The voluntary nature of participation on the LRG's programme raises questions about the demographic characteristics of those who volunteered and whether they are representative of the broader target group.

The most notable patterns in the attendance profiles of those magistrates attending social context training focusing on issues of race and gender are:

1. The under-representation of male as compared with female magistrates in relation to their numbers in the broader magisterial population.

Males make up three-quarters of the South African magistracy compared with females, yet proportionally females attended training more frequently than males.

2. The under-representation of White magistrates in relation to their numbers in the broader magisterial population.

Similarly, while Whites made up the majority of magistrates in 1998-2004 they were under represented at the training.

A possible explanation could be that the training was more accepted by newly appointed magistrates compared with long-standing magistrates. Newly appointed magistrates post-1998 would have been drawn predominately from the designated groups (females and Blacks, Coloureds and Indians) defined by the Employment Equity Act (No. 55 of 1998) while long-standing members of the magistracy were chiefly White males. These attendance patterns are a cause of concern as the long-standing magistrates had operated in the lower court system under apartheid and potentially presented the most pressing need for social context training.

3. Most magistrates irrespective of race, gender, and geographic location have only attended one workshop

The workshops were designed and presented as once-off interventions. The fact that some external evaluators suggested follow-up workshops, to maximise learning outcomes, is evidence of this fact. The pattern above suggests that the majority of participants received the intended dosage.

4. There are relationships between rank and number of workshops attended.

The pattern of attendance and rank is indicative of overall numbers of magistrates per rank in South Africa. According to the latest figures sourced from a representative of the Magistrates Commission, there are currently 1613 magistrates and 347 regional magistrates working in the lower court system (A. Prinsloo, Personal Communication, May 15, 2008). The rank breakdown has remained consistent over the last ten years. The data shows that attendees represent the lower ranks more than the senior ranks of the magistracy. The more experienced and higher-ranking magistrates appear to have been less likely to attend training compared with their less senior colleagues.

Part of assessing service utilisation is attempting to assess whether sufficient numbers of target population received training. The answer to this question depends on how one defines 'sufficient'. In this case the answer relates to the perceived need for the intervention and the availability of resources to meet that need.

The needs assessment in Chapter Four suggests that there was a recognised and legitimate need for the training, yet realistically the LRG could accommodate a finite amount of participants on their programme. The LRG was the only body offering workshops of this kind during the period 1998-2004 and was a relatively small operation employing on average five permanent staff members at any given time. Their capacity was limited by their size, their reliance on donor funds and to some extent their geographical location. In spite of these constraints, the programme still reached over a third of the magistrate population.

Service delivery

One could argue that service delivery is a necessary (albeit not sufficient) condition for the achievement of programme outcomes. Numerous authors suggest that effective service delivery is critical for programme success (Bliss & Emshoff, 2002; Chen, 2005; Rossi et al., 2004). A programme's delivery system is specified in its design and involves a variety of activities that make up an intervention.

The results of this implementation assessment suggest that the LRG's programme functioned well. There is sufficient evidence to suggest that the participants were satisfied with the services they received and that the training received favourable assessments from external evaluators. The results of the assessment of the service delivery suggest that, for the most part, the programme was implemented as intended.

The overall assessment of the workshops by both the participants and external evaluators were positive. The former tended to be highly favourable while the latter source of data offered a more mixed assessment of the delivery of the programme.

When assessing service delivery, one also needs to try to establish whether the intervention was delivered in a standardised manner across different sites. Failure to present a standardised intervention could lead to implementation failure (Rossi et al., 2004). The analysis of the participant evaluation forms suggests that the target population was equally happy with the service delivery across 12 workshops. The

analysis of the external evaluator reports, however, suggests that the quality of the intervention improved with time.

The data in the external evaluators' reports indicate that programme staff used these reports to enhance the service delivery. Continuously attempting to improve the programme does not mean that the programme varied "excessively across the target population." (Rossi et al., 2004, p. 191). Rather it indicates that the programme staff were open to the feedback from the external evaluators and used their recommendations to constantly improve the service they offered programme participants.

The quality of the data

The quality of any evaluation is only as good as the data it is based on (Rossi et al, 2004). In researching this process evaluation, the evaluator confronted some challenges in collecting data for the service delivery component. While the LRG office manager gave the evaluator relatively free access to the LRG's records and documents, some of the data sources were incomplete. The gaps in the data reflect different styles and standards in data management by LRG staff over a six-year period. Up until 2000, the LRG did not have a data management system and paper-based records were kept.

Out of the 26 workshops included in this evaluation, the evaluator was only able to locate participant evaluation forms for 12 workshops and 23 external evaluator reports.

As participant evaluation forms are useful sources of implementation assessment data, it is recommended that a standard participant evaluation form be developed for future workshops. It may also be advisable for the data on these forms to be recorded electronically directly after the workshop in order to improve the data management processes. Standardisation of both participant evaluation forms and the structure and content of external evaluator reports would ensure that the data in these documents could be comparatively analysed and tracked. A system could also

ensure that consistency is maintained regardless of staff turnover. A data management system would ensure consistency in data collection over time and improve the quality of the implementation assessment data for future evaluations.

The results of this implementation assessment suggest that the programme functioned effectively. The results, however, must be read with caution as the design of the evaluation was weakened by the reliance on secondary data. The data sets available to the evaluator were incomplete due to historical differences in data storage procedures at the LRG Unit. The design difficulties also relate to the fact that the implementation assessment was, by necessity, retrospective. For future evaluations of ongoing training the evaluator would attempt to apply a quasi-experimental evaluation design to improve the strength of the conclusions drawn.

The service utilisation patterns should be understood in the context of the voluntary nature of the programme. Of the members of the magistracy who volunteered for training during 1998-2004, 43% attended social context workshops. This 43% was made up of a range of magistrates from diverse races, both genders and all provinces in South Africa. The general consensus of the attendees suggests that the service delivery they received was of a very good standard. While more nuanced and differentiated, the external evaluators' reports provide additional evidence to suggest that the overall service delivered by the programme was of a high standard.

CHAPTER SEVEN

Assessing the Outcomes of the LRG's Social Context Programme

The results of the process evaluation in Chapter Six suggest that the social context training programme has been implemented satisfactorily. The results show that the programme has functioned well and has been positively received by programme participants. Whether or not the programme has brought about any significant changes in participants' attitudes, skills, knowledge or behaviour remains to be addressed.

Assessing the extent to which post-intervention changes have taken place is the fundamental task of evaluation (Rossi, Lipsey & Freeman, 2004). Outcome evaluations focus on establishing how the programme has changed the state of the participants. While the other levels of the programme evaluation hierarchy are important, it is in assessing programme outcomes that an evaluator judges the success or failure of a given programme (Rossi et al.). Outcome evaluations investigate whether the programme has achieved its intended goals (Chen, 2005; Rose & Davidson, 2003; Rossi et al.; Scriven, 1991).

It cannot be assumed that all functioning programmes have clearly delineated and articulated programme outcomes that are readily accessible for evaluation purposes. Consequently, the first task for an evaluator embarking on this level of evaluation is to ascertain accurate programme outcomes. In order to do this the evaluator generally consults with programme staff and other key stakeholders, and studies programme documentation in order to extract, identify or clarify programme outcomes (Rossi et al., 2004).

Rossi et al. (2004) suggest that evaluators use the programme impact theory to help develop and classify outcomes. A programme impact theory communicates the intended effects of a given programme. It articulates the predicted causal relationship between the programme activities and desired or intended outcomes (Bickman, 1987; Chen, 1990; Martin & Kettner, 1996). The impact theory also differentiates between different kinds of outcomes such as proximal outcomes which are expected directly after the intervention, and subsequent longer-term distal outcomes (Rossi et al.).

In addition to using the programme impact theory to identify outcomes evaluators can analyse previous research and the evaluations of similar programmes to obtain helpful information about applicable outcomes that might not be automatically obvious when consulting programme staff or the programme impact theory (Rossi et al., 2004).

Programmes may also produce unintended outcomes that were not predicted at the outset of the intervention. Those conducting outcome evaluations should be able to detect and report these unintended outcomes, which can contribute additional value to the evaluation process (Dorner, 1996; Morell, 2005; Rossi et al., 2004; Tenner, 1996).

Having defined intended programme outcomes, the evaluator then embarks on the complex process of measuring the extent to which these outcomes have been realised (Rossi et al., 2004). There are multiple approaches, methods and techniques for measuring or assessing programme outcomes. The evaluator is tasked with selecting the most appropriate technique based on the context and content of a given programme. Brinkerhoff's (1983, 2003, 2005, 2006a) Success Case Method (SCM) was used to assess the outcomes of LRG's social context training programme.

Logic of applying the SCM in this case

The SCM is a reliable and efficient method for collecting data regarding the outcomes of training interventions (Barrington, 2004). The objective of the SCM is to measure the outcomes of training programmes and use this information to improve organisational performance and learning capability (Barrington). The assumption underlying this form of outcome evaluation is that one can discern the impact of training by studying those individuals who have most successfully implemented their learning on the job.

The SCM also involves studying those individuals who have been least successful in transferring their learning from the training to their work. These low success cases are studied in order to understand some of the barriers hindering the successful attainment of programme outcomes (Brinkerhoff, 2003). Both sources of information can assist programme designers and implementers to modify or enhance their programmes and leverage the unsuccessful individuals to achieve success.

The SCM aims to assess the extent to which trainees have applied new skills and/or knowledge to their jobs (Brinkerhoff, 1988). Unlike experimental evaluation designs, this method cannot lead to claims of causality. The strength of the SCM is premised on the evaluator's ability to use the method to extract defensible evidence to substantiate arguments of training effectiveness. The SCM offers the evaluator a convincing, practical, efficient and plausible framework for assessing programme outcomes (Brinkerhoff, 2003, 2005, 2006a, 2006b).

The SCM was chosen as it is a relatively new evaluation technique and provides an innovative approach to the traditional training evaluation models. In addition to this, the method has not been applied to judicial education programmes in any other setting. The results of the evaluation will contribute to the under-researched area of evaluating judicial education programmes and offer a novel perspective on evaluations in this field. The limitations of the application of this method in this case will be discussed in the final chapter of this dissertation.

Brief description of SCM

The SCM is designed to answer the following evaluation questions:

- 1) What has actually happened since the intervention? (i.e. who is using the training in their work; what aspects of the training are being used; who is successfully using the training; who is not using the training successfully?)
- 2) What results are being achieved post intervention? (i.e. what outcomes are being achieved; are these outcomes associated with the original programme objectives; are there any unintended results?)
- 3) What is the value of the results? (i.e. has the training produced meaningful results?)
- 4) How can the training be improved? (i.e. what aspects of the training are working well and what areas need to be changed; what barriers prohibit learning transfer; how can one increase the percentage of successful cases?)

These questions are designed to guide the evaluator in identifying the proximal outcomes achieved by the LRG's social context training programme.

Figure 11 represents a flow diagram of the five stages of the SCM as outlined by Brinkerhoff (2003, 2006a).

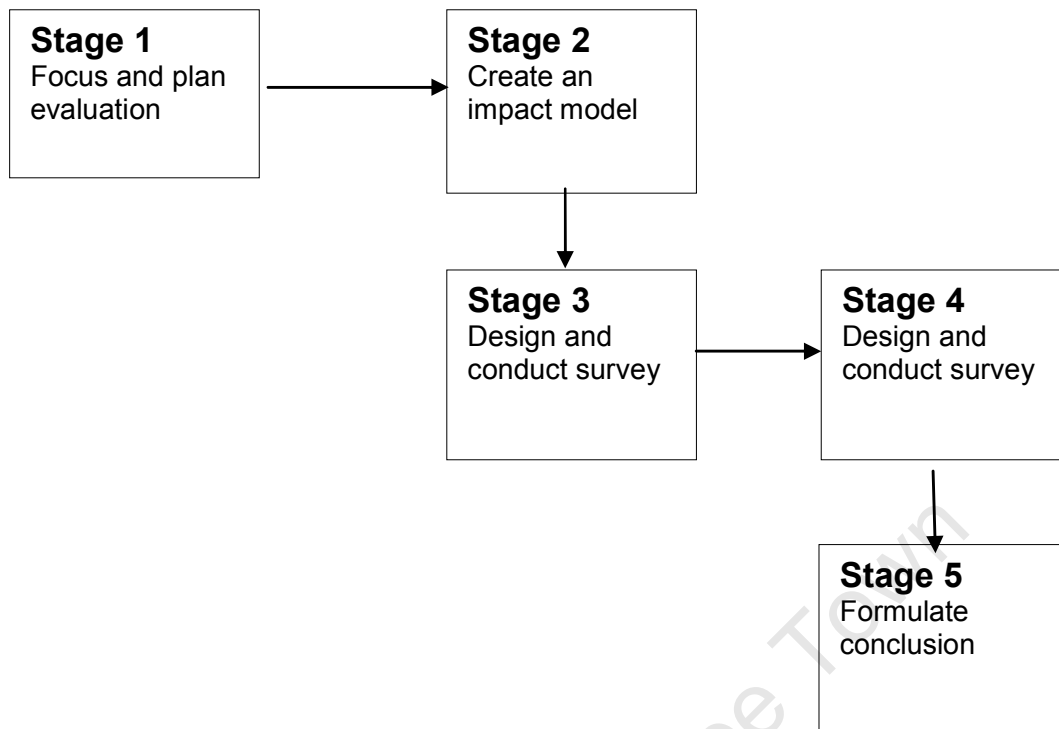


Figure 11. Flow diagram of the stages of the SCM

The SCM evaluation process begins by identifying the focus of the evaluation and mapping out the evaluation plan. The second step in this process involves designing an impact model representing the desired or intended impact of the training intervention for the trainees. Once the impact model has been defined, and approved by different stakeholders, the evaluator designs a short survey aimed at identifying success and non-success cases. This is generally a short succinct document containing a limited number of questions related to the intended outcomes of the programme as defined in the impact model.

The respondents who scored the highest (success cases) and lowest (non-success cases) on the survey are then selected for in-depth interviews. The interviews explore the nature of the interviewees' experiences post-training and aim to develop a coherent picture of how the training was used, what results were achieved and what barriers inhibited successful training transfer (Brinkerhoff, 2003, 2006a).

The SCM comprises two research phases: the first phase involves survey research and the second phase comprises qualitative data collection and analysis. Brinkerhoff (2003) does not prescribe particular survey or interview techniques or styles in his seminal work on the SCM, but recommends that evaluators follow empirically sound and rigorous methods in this regard.

The SCM is used to answer the following outcome evaluation questions for the LRG's social context training programme:

1. How has the state of the trainees changed since the social context training intervention?
2. What aspects of the social context training led to this change?
3. What results were achieved by the trainees?
4. What value did the training add to the trainees' judicial decision-making and court conduct?
5. What aspects of the training helped bring about learning transfer back to the workplace?
6. What barriers prohibited some trainees from using the training?
7. What aspects of the programme could be improved in order to provide an even greater change for the trainees?

METHOD

Participants

Description of survey respondents

For the first stage of the research, a purposive sampling strategy was employed (Trochim, 2006). This is an appropriate method to use when there is a predefined or targeted group or subgroup one is attempting to access. In this case, the predefined

subgroup was all magistrates who had attended the LRG's social context training programme between 1998 and 2004.

The contact details for the 526 magistrates who had attended a social context training workshop were extracted from the electronic data-base of all magistrates in South Africa.

The on-line survey was completed by 84 magistrates (out of 526). This constitutes 16% (84/526) of magistrates who attended the LRG's social context training programme between 1998 and 2004. Of the 84 respondents, 53 (63%) were male, 30 (36%) were female and one respondent did not record his/her gender. In terms of racial composition, there were 22 (26%) Black respondents, 48 (57%) White respondents, 4 (5%) Coloured respondents, 9 (11%) Indian respondents and one respondent did not record his/her race. The respondents were from all nine provinces in South Africa, with most respondents from Gauteng (31%), Limpopo (20%) and the Western Cape (15%).

The sample consisted of 28 (33%) regional court magistrates and 51 (61%) district court magistrates. The remaining five respondents (6%) did not indicate which court they worked in.

The survey was used as a sampling technique to identify the success and non-success case interviewees. The survey (the covering letter and survey are presented in Appendix D and discussed in detail in the Materials section of this chapter) succeeded in discriminating between groups of respondents who benefited from, and changed because of, the training and those who did not derive benefit from the training. This clear differentiation between the two groups of respondents can be seen in the percentages in Table 13

Table 13

Survey Responses of Trainees

Item	Percentage				
	Tried this but not because of the training	Have not tried this at all	Tried this somewhat but do not expect any results	Tried this but had no clear results yet	Tried this and had clear and positive results
I used the training to hand down more creative sentences (i.e. non-custodial sentences)	26%	1%	2%	30%	41%
I used the training to manage all people fairly in my court	26%	0%	2%	8%	63%
I used the training to improve my understanding of the diverse needs of the people who appear in my court	16%	0%	6%	12%	67%
I used the training to improve my understanding of the unique situations of the people who appear in my court	1%	12%	5%	21%	61%
I used the training to communicate in a respectful manner with my staff and colleagues	31%	1%	2%	11%	55%

N=84

The percentages in Table 13 indicate that the results are bimodally distributed and differentiate between success and non-success cases.

It is clear from Table 13 that 26% of respondents tried to hand down more creative sentences but did not attribute this to the training while 71% used the training to try to hand down more creative sentences. Similarly Table 13 shows that 26% of respondents attempted to manage people fairly in their courts but did not credit this to the training, while 71% of respondents tried this because of the training. 79% used the training to

enhance their understanding of the diverse needs of the people who appear before them in their courts, while 16% of respondents did not use the training in this regard. 82% of respondents indicated that they had used the training to improve their understanding of the unique situations of the people who appear in their court and 13% of respondents did not use the training to achieve this outcome. 66% of respondents reported having used the training to communicate in a respectful manner with their staff and colleagues and 32% of respondents reported that they did not use the training for this purpose.

The differentiation between the high and low success cases can also be seen in the data presented in Table 14. Table 14 displays the response patterns for survey items 6.1- 6.11 in the form of frequency counts and percentages. With the exception of the first four items, the majority of respondents ticked “yes” for these items in the survey.

Table 14

Responses Patterns of Trainees on Outcome Measures

Variable: The training has produced the following outcomes:	% Yes	% No
Clarified my questions related to the content of new legislation	40%	60%
Clarified my questions related to the Constitution	36%	64%
Clarified my questions related to the content of legislative changes	42%	58%
Clarified my questions related to the practical implementation of new pieces of legislation	40%	60%
Increased my understanding of the social and economic circumstances of the people who appear before me in my court	88%	12%
Increased my understanding of how personal prejudices impact on my court practices	62(74%)	26%
Increased my understanding of how my personal prejudices impact on my judicial decision-making	68%	32%
Increased my understanding of racism and sexism in general	79%	21%
Introduced me to strategies for thinking about my own personal biases	61%	39%
Increased my understanding of how attitudes about people who are different to me impact on my work behaviour	69%	31%
Clarified my understanding of my role as a judicial officer in a transforming society	80%	20%

N=84

The evaluator used the scores of the survey responses to identify eight success cases and four non-success cases. The maximum score possible on the survey is 54. Four

respondents attained this score (5% of overall sample of respondents) and four respondents attained 53 (5% of overall sample of respondents). These eight respondents were the most successful cases and fortunately all had included contact details on their returned surveys, indicating a willingness to be interviewed.

The respondents who obtained the lowest scores (19/54; 23/54) did not provide contact details. The evaluator identified the respondents with the next lowest scores, who did provide contact details, as non-success cases. Two of these respondents scored 29/54 and the remaining two scored 28/54 and 25/54 respectively.

Description of interviewees

Of the eight success cases, there are seven men and one female; two of the men are Black and the rest of the men and the one female are White. Except for one regional court magistrate, they are all district court magistrates. They are from different provinces throughout South Africa, e.g. one from Limpopo Province, three from Northern Cape, one from Gauteng, one from Western Cape and one from Mpumalanga.

All the non-success cases are district court magistrates and there are two Black males and one White and one Coloured female. They are from Gauteng, Western Cape, Limpopo Province and Mpumalanga.

Procedure

Creating the Impact Model

The first step in the research process involved devising the impact model. The evaluator followed Brinkerhoff's (2003, 2006a) guidelines on how to extract an impact model that represents the intended outcomes of the training.

Table 15 presents the impact model for the LRG's social context training programme. It is an adaptation of the model proposed by Brinkerhoff and has been tailored to the specific nature of this training intervention.

Table 15

Impact Model for the Social Context Training programme

Capability (key skills and knowledge)	Behaviour	Results	Goals
Increased knowledge and in-depth understanding of social context issues	Can recognise when cases involve social context concerns and is able to respond appropriately to social context issues	Magistrate incorporates social context concerns into court proceedings	shift from legal positivism to a social context orientation Increased self-understanding about stereotypes and prejudices and how these influence on judicial conduct
Increased knowledge of consequences of discriminatory attitudes and behaviours on work practices Improved skills in handling diverse people equally and fairly	Does not allow personal opinion about social context concerns to impact on judicial conduct and decision-making	Magistrate demonstrates improved skills in fairly handling diverse people Magistrate treats all people with equal respect and dignity	Increased accessibility to courts through: Increased breadth and depth of knowledge about diverse people who appear in court Increased sensitivity to how one conducts one's self as a presiding officer on the bench Greater sensitivity and understanding of social context concerns of complainants and accused Decrease in discriminatory language and/or behaviour in court practices and judicial decision-making
Increased knowledge of new legislation and legislative changes	Studies new legislation and legislative changes	Magistrate delivers judgements in line with current legislation	Correct and consistent application of new legislation and new provisions within old legislation

The model consists of four key components; (1) capabilities or the desired knowledge and skills that should result from the training, (2) behaviour referring to the application of the new knowledge and skills, (3) results which refer to the demonstrable proximal outcomes of using the new capabilities back in the workplace and (4) the goals which refer to distal outcomes.

The impact model helps the evaluator design the data-gathering materials (i.e. the survey and the interview schedule).

Materials:

Survey

The SCM survey is used to identify high and low success cases. It aims to identify those individuals who are most and least successfully applying the knowledge and skills learned during the training back in their workplaces.

Using the impact model as a guide, and after intensive analysis of programme materials, the evaluator designed a survey with items referring to specific desired or intended programme outcomes.

Brinkerhoff (2003, 2006a) suggests that one of two types of surveys be considered. The first kind is a single-purpose survey designed to differentiate between trainees who report high or low success after a given training intervention. This survey is brief, focused and aims at generating the minimum amount of information required to categorise high and low success cases. The second kind of survey is designed to collect more comprehensive and detailed information about the extent of successful implementation or training transfer. The former kind of survey was used in this study.

The single-purpose survey is generally made up of a limited number of items (Brinkerhoff, 2003). The survey used in this study (which can be found in Appendix D) was divided into two main sections, namely applications of intended outcomes of the training, and demographic details. The success case scoring system used 18 of the items in the survey. The response scale for items one to five was devised according to Brinkerhoff's (2003) suggested scale and was scored as follows:

- Tried this and had clear and positive results (5)
- Tried this but had no clear results yet (4)
- Tried this somewhat but do not expect any results (3)
- Tried this and it did not work (2)
- Have not tried this at all (1)
- Tried this, but not because of the training (1)

For survey items one to five, each response was scored according to the value shown in the brackets. A high success response would score a five and a low success response would score a one.

The latter two responses (i.e. Have not tried this at all; Tried this, but not because of the training) are both scored a (1) as both options indicate no transfer of learning. The rationale for this was to control for extraneous variables that could confound the results. An example of this would be another training course or intervention that could have led to the same desired results.

Items 6.1-6.11 were also included in the scoring system. The format of this scale was a simple response to the question, “*The training has produced the following outcomes*” and respondents were invited to tick a series of outcomes. An affirmative response scored a two and a negative answer scored a one.

Item 7 was also included in the scoring of success cases. These statements were scored as follows:

- I learned something new, I used it, and it has led to some very worthwhile results (5)
- I learned and tried some new things, but can't point to any very worthwhile results (4)
- While I may have learned something new, I have not been able to use it yet (3)
- I already knew about, and was doing, the things that training taught (2)
- I don't think I can really use what I learned in the training (1)

The final item incorporated into the success case scoring system was included in the demographic section of the survey. This item asked the respondents to indicate whether they had ever acted as a magistrate facilitator at any of the workshops. This item was included as there was a practice amongst programme staff to include magistrate facilitators in the facilitation teams. These were individuals who had demonstrated a serious commitment to the training and provided programme staff with evidence that they had used the training to change their conduct in court.

Sometimes referred to as “star” magistrates these individuals were identified by the programme staff as success cases and were involved in the training to promote its credibility.

The survey is essentially used as a sampling instrument to identify and locate success and non-success cases. Phase two of the SCM involves in-depth interviews with these success and non-success cases.

Confirmatory Interview Schedule

A confirmatory interview schedule was used during brief confirmatory telephonic interviews with each potential interviewee to ensure that the scoring and categorising of the success and non-success cases were accurate. The confirmatory interview schedule can be found in Appendix E.

Interview Schedule

The interview schedule was developed according to Brinkerhoff’s (2003) recommendations for designing a structured and focused interview aimed at eliciting specific information about the attainment of training outcomes. The questions in the formal in-depth success case and non-success case interview schedules are based on Brinkerhoff’s Protocol Conceptual Model of “filling buckets” (Brinkerhoff, 2003, 2006a). Figure 12 presents the high success case interview framework and Figure 13 presents the low success case interview framework.

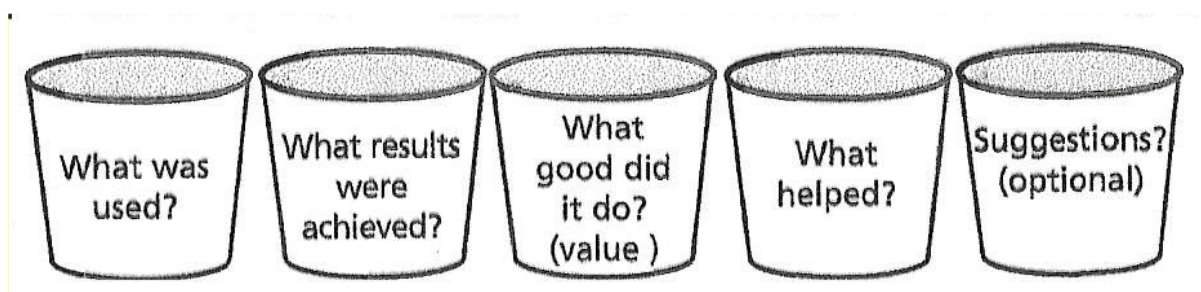


Figure 12. The High Success Case Interview Framework (Brinkerhoff, 2003,p.142)

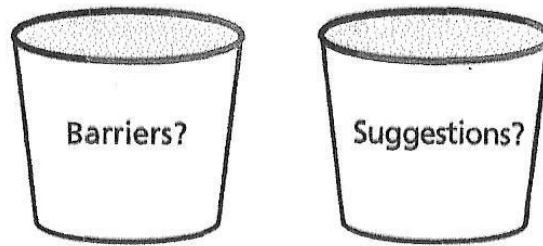


Figure 13. The Low Success Case Interview Framework (Brinkerhoff, 2003, p.145.)

The interview schedule is designed to elicit data to fill each category of information represented by the different buckets. Interviews generally followed the schedule in Appendix F but flexibility was allowed to give interviewees more opportunities for contribution.

Procedure

Survey

Initially, a paper-based version of the survey was designed for distribution by traditional postage. A representative of the Magistrates' Commission, however, advised the evaluator that paper-based surveys distributed by mail had not proven successful in collecting data from this population in the past. Based on this advice from the Magistrate's Commission, a two-stage data collection strategy was employed.

Data collection involved emailing all 526 magistrates and attaching a web link to an electronic on-line survey. The email contained a cover letter explaining the nature, purpose and scope of the survey and outlined issues of confidentiality. The email explained an alternative method of opening the survey if the link failed to work. This process was repeated twice over a two-week period and garnered a response of 19 (3.6% response rate) completed surveys. A third email was sent in week three and an additional 11 responses were captured. This brought the total number of responses to 30 (5.7% response rate).

In an attempt to increase the response rate, the evaluator embarked on a second stage of data collection which involved working through the Magistrates' Commission and cluster heads. At an annual meeting at the Magistrates' Commission, the cluster

heads agreed to distribute the questionnaires directly to the relevant magistrates in their districts. The process took approximately two months and an additional 54 completed surveys were either faxed or emailed to the Commission and forwarded to the researcher. This brought the total number of completed surveys to 84 (16% response rate).

Interviews

During the confirmatory interviews, the evaluator made arrangements for the one-on-one in-depth interviews. This process took considerably more time than was initially anticipated as many of the potential interviewees do not have secretaries or messaging facilities on their office telephones. Magistrates also spend limited time in their offices as the majority of their day is spent in court. In some cases it took approximately two weeks before the evaluator reached the potential interviewee. Despite the difficulties in making initial contact, once contact had been established all the potential interviewees agreed to participate in the interview process.

The interviews took place over a three-month period (November 2007- February 2008). The success case interviews ranged from 45 minutes to 90 minutes while the non-success case interviews lasted an average of 30 minutes.

Ten interviews took place in person, while two interviews were conducted telephonically. The latter occurred at the request of the interviewees and suited the evaluator as the interviewees worked in relatively isolated courts in remote regions of South Africa.

The interviews were recorded and later transcribed for the purposes of analysis.

RESULTS

The Protocol Conceptual Model (Brinkerhoff, 2003, 2006a) guided the qualitative data analysis process of the interviews. The Protocol Conceptual Model offered the evaluator a template against which the data was analysed. The technical operations

of analysis mirrored the qualitative data analysis techniques suggested by Miles and Huberman (1994) already described in Chapter Four.

The data analysis process essentially aimed at providing answers to the interview schedule questions. The analysis involved working through the content of the eight success case interview transcripts and grouping their answers according to the occurrences of specific themes. A simple frequency-based analysis technique was used to ascertain the recurrent and predominant themes across the success case interviews. The same process was employed for the non-success case interviews.

The evaluator decided that if 50% (4/8) or more of the success cases mentioned a specific issue it would constitute a theme. Similarly, if two or more of the four non-success cases cited an issue, it constituted a theme.

The results for the success cases and non-success cases are presented separately. The results are presented according to the evaluation questions in the interview schedule.

Success Cases

Question 1: What was used from the training (application)?

The responses to Question 1 include information regarding how the success cases applied the training content after the social context training intervention. Eight themes were identified in the data through the data analysis process:

Created a safe space for reflection and facilitated personal transition

All eight success cases reported using the training to reflect on their own stereotypes and prejudices. There was general consensus amongst the success cases that the training created opportunities to question the ways in which they thought about, and treated, diverse people in their courts. They reported that the workshop activities were directed at the intra-personal level and succeeded in bringing about attitudinal shifts.

They worked with us. They not only taught us, we taught each other. They first worked with us as individuals. They made you look inside yourself, they made you look at your comfort zone; understand what your comfort zones were, and your fears, and your own human development....and we could talk [to the other participants about what was inside ourselves] and that is what changed people... (SC Participant 1)

... with Law, Race and Gender in the beginning, they didn't tell you; don't discriminate. They showed you your inside where you discriminate and then you could understand. (SC Participant 7)

Well they did it [the training] so well that you started reflecting on your attitudes without knowing it. They did not say, look people we are now going to change you. It was games and this and that, but when you went home you were not exactly the same person any longer... it helped... I am a changed person because you know you can't have a stuck idea of what the world is like and then you bump over the first domino you know what happens, prrrrrr the whole thing goes. My religion, my everything, changed and it started with this training. (SC Participant 4)

Four success cases pointed out that they might have eventually begun the process of personal transformation on their own but that the training accelerated this process. As illustrated by the following quotation, they reported that the training provided them with a contained and safe space in which to reflect on their attitudes.

Well, you must remember that was at the time around 1994, 1995, 1996, and there were changes all over. I think I would have got there eventually but it would have taken me a long time. I think if I look back they gave me a safe place to jump on the wagon and change and find out what's going on. The training also provided a place to find out what

do other people think about where we are going. They introduced us to a whole new world, goodness, no it was wonderful. (SC Participant 2)

Question conservative beliefs systems

For four success cases, who reported that they grew up in particularly conservative communities, the workshops were the first places where they could safely question the belief systems that they had been taught throughout their upbringing.

....it made me think about myself and what was going on. Look I was an Afrikaner vrouwtjie [little wife]. Where I grew up we didn't think much. Okay I wasn't taught to think, ... and the trainers started me thinking and if it wasn't for them, I suppose I would've but it would've taken me much longer. It would have been much harder. I would have been alone. I would have been scared of changing the picture of God the church taught me. You don't do that. You go to hell you know and they will sommer [just] make it hell for you here on earth also if you start questioning... (SC Participant 5)

News ways of thinking

All eight success cases commented that the training opened their minds to new ways of thinking and to being more open-minded in their perspectives of the world.

...the training made my mind more open than what it was already and it made me realise that you know you really can do something ... you can also be more positive. You can do more positive things, understand social context to change other people's lives... (SC Participant 3)

Help manage political and societal changes

Six success cases commented on the fact that the training they attended in the mid-1990s helped them make sense of some of the political and social changes taking place in South Africa at the time.

Okay before '94 I think we were a lot of puppets although we didn't realise it. The government of the day used us. After '94 everything turned around. It was Dullah Omar who turned it around. Since '94 there was a huge change and then once I got involved in LRG they helped me understand the changes. That was a changing point in my life and changing point in my career that is. (SC Participant 2)

For five success cases, the workshops helped bridge the gap between the expectations and obligations of new legislation, the new Constitution and their work requirements.

Ja, you weren't obliged to go, but we decided to go. It was the new dispensation it was the new South Africa, it was the new Constitution and everything was new.... So I decided I must go, see the change from the old South Africa and the new South Africa how it would affect our work... (SC Participant 7)

Provided conceptual framework for thinking about difficult issues

Five of the success cases commented on the fact that training provided them with the tools and conceptual framework to think about complex social context issues.

I think before I went to Law, Race and Gender there were issues that I couldn't logically deal with. I think my ideas were scattered. I wouldn't be able to put them in a particular context. So Law, Race and Gender managed to make me think in a context, in a logical way. I can sit now and be calm and come out with good results unlike before...I wouldn't know where to start but Law, Race and Gender I think has given me a good approach. [They have given me a framework] of how to approach

issues of gender, how to approach issues of race, how to approach people in equality. I think that is how Law, Race and Gender has helped me. (SC Participant 8)

Social contact and dispelling myths

All eight success cases reported using the training to interact with people from different racial groups, and for many success cases, the workshops provided the first opportunity for this kind of interaction. Participants commented on the value of social contact in both the formal workshop sessions and in informal gatherings for meals or after-hours social functions.

You know even the socialising in the evenings, going together to functions, eating together, dining together, doing things together and to see how these people react on certain situations and see that you more or less react the same. There's no real difference. (SC Participant 2)

This social contact had different effects for different racial groups. The White success cases emphasised that the workshops were the first contact they had had with Black people as professionals and equals. The social contact helped break down their fear of Black people.

... I was so scared of Black people and a White woman didn't speak to a Black male, except when they were in a working relationship... and nobody worked with Blacks, ...here I am for the first time ... sitting at the same table with them and listening to them and LRG did this thing... (SC Participant 1)

Oh yes they [Law, Race and Gender Unit] started it all, before I was always a people's person but I was a very scared people person. I was very fearful and I was very scared of the Black people and what they are going to do ... (SC Participant 5).

The Black success cases experienced the social contact as creating opportunities for integration into the community of judicial officers.

I think the things that stood out for me are these: you know apartheid damaged a lot of people. That people thought Blacks are, are bad people. They are of a lower standard. We can't be equal to them, not only in terms or race but also in terms of thinking, and we had to demystify that mystery. The contact helped this. It helped demystify things; it helped us become a part of the magistrates. (SC Participant 3)

Small group work, working through case material and access to information

Five success cases commented on the usefulness of working through case material in the workshop sessions. They explained how these sessions facilitated debates about controversial aspects of law and new ways of seeing old cases and legal scenarios. They also commented on learning practical skills in the interactive and role-play sessions.

The LRG did a lot ... and the cases that came, you know there were lots of wonderful cases and very important cases and I got my information from them ...(SC Participant 8)

Four success cases, who worked in more isolated districts away from the major cities, explained that the workshops provided access to both material and personnel resources that were not readily available in their regions. They explained that in rural or isolated courts they had limited access to information or opportunities to work through cases with colleagues.

At the workshops we were provided with current commentaries on cases, access to materials and colleagues with whom we could discuss complex legal issues. (SC Participant 7)

Understanding domestic violence

Six success cases commented that the workshops focusing on gender discrimination were particularly useful. They explained that in these workshops they learned about the cycle of violence and its association with socio-economic realities. These success cases reported using new knowledge about the psychological factors involved in domestic violence to change their court practices and decision-making.

I was never previously trained about the psychology of domestic violence and before the training would judge women for remaining with abusive partners without understanding the real dynamics...(SC Participant 6)

Learning about the cycle of violence was new for many people, we couldn't understand why women often withdrew charges, understanding this had a big impact into what domestic violence and abusive relationships are all about, what is actually going on...(SC Participant 7)

Question 2: What results were achieved?

The theme that emerged from the analysis of the success case interviews regarding this question refers to implementation of actual changes in work practices as a direct consequence of the training.

Improved access to court

The general consensus amongst all eight success cases was that their experiences during the training assisted them in making their courts more accessible to the public. They all reported making changes in their courts after the training. The extent of these changes varied from individual to individual and ranged from trying to

change the climate of the court to providing toys for the children of parties involved in legal matters.

Well, we started to make the courts more user-friendly. I have put in blackboards with crayons and stuff for the kiddies waiting at the maintenance courts for their parents... (SC Participant 5)

Six success case participants used the new knowledge from the training to change the climate in their courts and set an example for other court officials.

I think in my court I led by example and that made a complete change. I think even my court personnel; court orderlies and prosecutors picked it up without my sort of giving lessons, just by me setting an example. If you believe in it and you practice it each and every day then it spills over and people pick it up and make it part and parcel of what is happening in court... (SC Participant 1)

Community involvement and out-reach initiatives

Five success cases reported that the training led to an increase in their community involvement. They reported that the training shifted their perspective of their role in society both inside and outside their courts. They reported wanting to use their status within their communities to initiate awareness and social programmes. They explained that many people come to the courts under-prepared for the proceedings. These success cases took on additional responsibilities to liaise with non-governmental and community-based organisations that could help members of the community in legal and social matters.

I trained NGOs to assist people in completing maintenance applications. We've trained people in completing domestic violence applications. In my jurisdiction some people travel from Saldanha to Vredenburg. It costs them about thirty rand just to get the forms and then they go back to complete but then come again to complete more

forms. So that was unfortunate and that's the heart-sore part of it, the administration part of the Department of Justice is falling to pieces... (SC Participant 1).

After the training I worked with private schools. We started an outreach programme and raised money for all sorts of community-based training... (SC Participant 5)

Question 3: What good did it do?

Three clear and consistent themes emerged in response to the question of what value was gained from the training.

Shift in purely positivist approach to law

All eight success cases discussed how the training helped shift their perspective on law from legal positivism to one that incorporates a social context orientation. They discussed the nature of their legal education and their subsequent lack of preparedness for incorporating social context issues into their judicial decision-making or court conduct. They identified this shift in perspective as a valuable contribution to their work practices.

It seems to me the way we initially had, the way of thinking was a legal positivist way, if I can call it that way...they tried to teach us some other way ...and that actually quite opened one's eyes. (SC Participant 2)

... I think it was actually quite good. In a sense you get some background as to the nature of the social problems which you're facing, which we're not always aware of as judicial officers...(SC Participant 4)

For five success cases the shift from legal positivism to a social context orientation also led them to develop an understanding of the variety of referral resources available in their communities. The training broadened their understanding of their role as judicial officer to include some social responsibility.

...what it did do to me on the bench is that my eyes were open to understand ... I'm now at the place where I should be. I'm doing family law and the domestic violence court... I refer people the whole time. I refer them for marriage counselling. I refer them for, for just counselling, for anger management... I refer them because I'm open to understand... (SC Participant 3)

Reinforced transformation agenda

Four success cases reported that the training reinforced and confirmed what they were already attempting to do in their work.

... while the training was very, very, very interesting having been a presiding officer for such a long time, I was objective all the time. What I learned was only a confirmation of what I already applied in my court... (SC Participant 8)

For five of the success cases, the support and reinforcement they received during the workshops were particularly important. These success cases described working in hostile and change-resistant court environments where some colleagues, and senior magistrates, were openly opposed to the political and institutional transformation taking place.

There was organisational and personal resistance to change and sometimes the senior people made it difficult to attend training by not allowing us to take an afternoon off. They didn't consider social context training real training...The image and perspective of management, remember management was white and 50 percent plus were males,

was negative. Some were terribly threatened and felt the training undermined their authority... (SC Participant 3).

Unintended Results – Socialising with colleagues and opportunities for debriefing

The theme of increased social contact was highlighted in response to the question of what was used from the training and is echoed here in response to the question of “what good did the training do?”. All the success cases commented on the fact that the workshops provided them with opportunities to communicate and connect with colleagues who shared similar work experiences.

The majority of participants reported using the workshops as places where they could debrief about some of their difficult and disturbing cases. They spoke about the traumatic aspects of their work and their daily encounters with serious crime and violence. They contrasted this with the lack of debriefing or counselling facilities offered by the Department of Justice and Constitutional Affairs. They reported often feeling isolated and unsupported in their work and reported using the training workshops as opportunities to engage with peers.

You know you come home from a hard day and your wife doesn't want to hear about what you witnessed. You can't bring it into the family. It is too horrible and you can't talk to the prosecutor about the case, and then I come to a workshop and I stand up in the morning feeling good having talked to my old friends, sometime into the early hours... (SC Participant 7)

The workshops are like a kop skoonmaak [a head cleaning] session... (SC Participant 6)

Question 4: What helped?

The two themes presented here highlight the common factors that helped the success cases use aspects of the training back in their workplaces.

Well-organised and -prepared workshops

Six success cases reported that the high standards of the workshop delivery contributed to their commitment to using the training in their work practices. These success cases complimented the workshop staff and facilitation teams on the service provided and explicitly stated that the workshop design and delivery helped in developing their levels of knowledge and skill.

They were very good. I don't know what training they had but they must've worked for hours and hours before each workshop because they knew exactly what they were doing and where they were going ... it was done absolutely professionally, excellently and this helped in preparing us with what we needed to take from the workshops. (SC Participant 3)

Commitment to change

Four success cases reported that the political and societal changes taking place provided incentive to use the training in their court practices. They indicated that the training was well timed and that environmental factors encouraged them to transfer some of the skills and knowledge learned in the training into their court practices.

You had to change. Change was going on all over and you needed to keep up. The training came at just the right time... (SC Participant 4)

Question 5: Do you have any suggestions for improvement?

The success cases shared one common suggestion for improvement. They all thought that the workshop duration needed to be extended.

Longer courses

The major theme to emerge from this question was that the workshops needed to be conducted over a longer period of time. The success cases reported that the time allocated for the workshops was far too short in relation to the intended outcomes and that a two-week intensive course would be more beneficial.

Four success cases reported attending the limited two-week courses run by the LRG in the late 1990s and rated their experiences on these courses more favourably than on the short weekend workshop.

Because in two weeks you can really start understanding the people who are with you on the course and, at the beginning when we arrived there, I thought that I would never understand the other people because they are from different races. There was a Zulu lady, there were Indians, Coloureds, Blacks, White and I was in a lot of doubt about whether we would figure this out, and after discovering that I also had some underlying... how can I say, vooroordele [stereotypes]. I actually didn't notice that I had these stereotypes and they were brought up during the long course and that gave me an understanding of where people actually come from... and this happened on the two-week, and not on the two-day... (SC Participant 2)

Non-Success Cases

Question 1: What barriers prohibited you from using the training?

The single most pertinent barrier prohibiting the non-success cases from using the skills and knowledge from the workshops was the fact that the training did not meet their specific needs.

No real training need

All four non-success cases reported that the training itself did not add value to their court practices as they were already engaging in the various intended behaviours in their work.

They also reported that their attitudinal shifts had taken place prior to the training, that they had confronted their stereotypes and were actively working to remedy any prejudicial behaviour before attending the workshops.

Ja, ja [yes, yes] on any course you learned something, but there wasn't drastic things that I learnt that I thought I had to adopt now tomorrow, I must change the old ways to go with this. No, no that wasn't my experience. If you are a magistrate then you must be objective and that is what I have always been like in court. You have to treat everyone equal... (N-SC Participant 2)

You know ... being a presiding officer you know you can't differentiate between White, Black, Coloured or whatever ...you knew this before you went on the training... (N-SC Participant 3)

... although I still have to go to some training I don't think it's really beneficial, it did not affect me so much because my mindset was already in that mode of this is not right... (N-SC Participant 1)

Two non-success cases commented on the fact that they found the training material unsophisticated and incorrectly pitched for the audience.

I think a lot of the course work or the sessions that they had...personally could have been more interesting ... more sophisticated.... on our level, possibly, because what they were doing was treating us if we were absolute idiots and that we were not aware. Taking that for granted...maybe they should have found out who their audience is before they just present whatever was there, before you even put on the finishing touches on your presentation...(N-SC Participant 4)

Question 2: Do you have suggestions for programme improvement?

There was consensus among all the non-success cases that the timing of the workshops should fall within the work week. They also identified stress management as an urgent training need that should be addressed.

Conducting training during the work week

The four non-success cases suggested that running the workshops during the work week instead of over the weekend would increase magistrates' willingness to attend. They indicated that attending the training over the weekend was not ideal as it took them away from their families and some single parents found it difficult to organise child care for entire weekends.

Some of the participants suggested that the programme staff should negotiate with senior management to free up their court schedules to accommodate the training during the work week.

Training should happen during the week, why should I give up my weekend for work-related training. They [the trainers] should work it out

with management so that we get relief from our court rolls to attend. (N-SC Participant 2)

Social context training to include managing work-related stress

All four non-success cases suggested that the Law, Race and Gender Unit should offer courses in managing work-related stress or trauma. They reported that there were no such courses offered by the Law, Race and Gender Unit, or by Justice College. They highlighted the need for courses designed to help them manage some of the consequences of working in a psychologically difficult and sometimes physically threatening environment.

They explained that they could not discuss their stress with senior management as it is considered a weakness and this could have negative implications for their performance assessment.

Yes, you have to look at photos of somebody that has been murdered, had their head chopped off. I mean it's horrific, even robbery cases you know people are shot and they're lying all over and what, what, motor vehicle accidents. You have to look at the photos of people who are pinned in their cars with their heads severed I mean it's terrible, it's terrible and you never ever get debriefing... I have never heard that somebody had been debriefed, I've never heard... (N-SC Participant 1)

Two non-success cases cited examples of colleagues who had committed suicide or become alcoholics because of work stress and cited examples of being threatened with violence in their courts. All four non-success cases relayed anecdotal stories of colleagues being threatened in their courts.

What I want to tell you about is one of my colleagues who committed suicide about a year ago ... Yes, yes and you know nobody knew of his problem but when we had the memorial service one of the magistrates said, he was talking to him one day. Just the day before he committed suicide and he said you know what, ag I'm fine...but then he said the

following... you know this job is really getting to me. You know you can't say it's stressing because it is regarded as a weakness, they would say that you can't handle your job, you know that kind of thing, you must try and have a debrief ... (N-SC Participant 3)

DISCUSSION

The SCM was used to assess what is working and what is not working in the LRG's social context training intervention. The method is designed to discover best practices, and evaluate the success of an intervention (Brinkerhoff, 2003, 2006a). Brinkerhoff cautions against using the method to draw general summative judgments about the intervention. He suggests that the value of the method is in detecting and exposing what the intervention can, and has, achieved. This is accomplished through identifying success cases and extracting the ways in which these individuals have used the training successfully.

The SCM concludes with attempting to make sense, and use, of the results (Brinkerhoff, 2003). Brinkerhoff suggests that there are a variety of different types of conclusions that a SCM study can focus on. It is the evaluator's responsibility to identify the type of conclusion, or combination of conclusions, most relevant to the aim of their specific SCM study.

The discussion of the results is organised around three types of conclusions suggested by Brinkerhoff (2003). The first two types relate to results drawn from the success cases while the last type is based on the information drawn predominately from the non-success cases. Suggestions and recommendations for future workshops emanating from the results and discussion will be presented in Chapter Eight.

Successful outcomes achieved

Evidence from both the quantitative and qualitative data suggest success cases achieved positive outcomes from the training. As evident in tables 13 and 14, the

majority of survey respondents indicate that they applied various aspects of the training in their work.

The results suggest that the success cases used the training to bring about changes to their attitudes and in their skills and behaviours.

Change in attitude

The success cases reported that they used the training to begin reflecting on their stereotypes and prejudicial attitudes.

All the success cases reported using the training to develop new ways of thinking. They also described how the training introduced them to different ways of seeing the world in which they lived. An example of these new ways of thinking is the shift from legal positivism to a social context orientation. All eight success cases reported using the training to re-orientate their perspective of the law in a way that incorporates social context concerns.

For the success cases that were raised in particularly conservative communities, the workshops provided the first unthreatening environment in which they felt safe to question the belief systems they had cultivated since childhood.

The training activities of the social context workshops were structured in such a way that they provided a forum for participants to analyse previously taken-for-granted perceptions about the diverse range of people whom they encountered in their courts.

The success cases ascribed their attitudinal shifts partly to the fact that the training activities were focused on the intra-personal level. This result suggests that the workshop activities were successful in their intended aim to increase reflection and critical appraisal of trainees' entrenched beliefs about people who were different from them. The result further suggests that these activities helped trainees reflect on, and question, the processes through which these beliefs had developed.

The process of reflection is a critical component of adult learning (Argyris and Schön, 1974, 1978, 1996, Baumgartner, 2001; Brookfield, 2000; Freire, 1970; Kolb, 1984; Mezirow, 1991, 1998, 2000; Schön, 1991; Truelove, 2006). Mezirow's (1991, 1998, 2000) Theory of Transformative Learning suggests that adult learners can be transformed through the process of critical reflection. While there is no evidence to suggest that the LRG's programme designers consciously used this theory in planning the workshop activities, some of the principles appear to be inherent in its design.

The role of the facilitator in the Theory of Transformative Learning (Mezirow, 1991) is to assist the trainee to analyse the underlying assumptions which inform their beliefs and subsequent actions. The facilitator is tasked with helping trainees investigate different sets of assumptions and test these through social interaction and concrete experiences. The success cases report using the training to become more reflective and critical of their beliefs and subsequently more open to alternative perspectives. This constitutes success for the social context training workshops as some of the key capabilities outlined in the programme's impact model refer to changes in knowledge of, and attitude towards, social context.

The success cases also attributed the opportunities for social contact with diverse people as contributing to the attitudinal shifts. Pleasant contact with out-groups has been shown to reduce prejudice when the contact is intimate and between equal-status individuals (Allport, 1954; Brown, 2000; Henry & Hardin, 2006; Pettigrew, 1998; Pettigrew & Tropp, 2006). Meta-analytic studies, however, conclude that this contact effect is only associated with the traditional forms of explicit prejudice as opposed to more subtle or implicit forms of prejudice (Henry & Hardin). This would suggest that the opportunities for social contact during the workshops would have a greater influence for individuals with explicit prejudicial attitudes and would be less effective for participants who harboured implicit prejudices. This finding supports one of the main conclusions of the theory evaluation presented in Chapter Five. The conclusion is that the LRG's social context programme targets explicit prejudice, while the programme is not designed to deal with the difficulties and complexities associated with implicit or subtle forms of prejudice. There is evidence from the

success cases that explicit prejudicial attitudes are targeted by the training and training environment and hence, despite its limitations, the programme is achieving this intended outcome.

Change in behaviour

The success cases also appear to have developed new behaviours as a result of attending the training. All eight success cases discussed using the training to make their courts more accessible to the broader South African population. This is a key goal included in the impact model for the social context training programme. The success cases reported making changes to the facilities in their courts and in the climate of their courts. As the presiding officer in court, their behaviour is influential and sets the tone for how the court operates. They reported a spill-over effect to other court personnel who followed their lead in making the courts more accessible to a diverse range of users.

As outlined in Chapter Four, the social need that was identified was transformation of the lower court system to ensure fair and equal justice for all South Africans. Increasing accessibility to the courts is an important step in fostering a court system that is perceived as fair by the broader population.

The training also stimulated some of the success cases to become increasingly involved in their communities through community-based initiatives. These success cases reported developing an increased sense of responsibility towards the communities they serve. This increased sense of responsibility prompted them to engage in behaviours that contributed to community empowerment such as working with non-governmental organisations to help members of the community better prepare for court proceedings.

Change in Skills

The success cases reported using the training to understand and manage the political, legal and societal changes taking place around them. The training provided

them with a conceptual framework and analytical skills to think about the macro changes taking place. One of the outstanding features of South Africa's new Constitution is its emphasis on societal transformation (Jagwanth, 2003). This emphasis had a ripple effect on the entire legal framework in South Africa and numerous laws had to be amended to be brought in line with the Constitution. Courts in constitutional democracies like South Africa play a central role in protecting and arbitrating the rights inferred by the Constitution; hence it is critical that magistrates have up-to-date knowledge about constitutional developments (Klare, 1998). The results suggest that the workshops provided the success cases with knowledge about the new Constitution and legislative framework and the skills to apply these amended laws in their work.

The results indicate that the training helped the success cases to develop the skills to understand and respond to the complex social context issues they confront in their courts. These changes in skills represent the intended capabilities outlined in the impact model for the social context training programme. Attaining these capabilities is the first step in achieving the overall goals of the programme.

Aspects of the training that should be retained

The success cases highlighted a number of factors that contributed to the programme's success for them and hence should be retained in future social context training programmes. These include aspects of the design and format of workshop activities such as the use of small group work, case study analysis and the sharing of current information about changes, debates and controversies in the legislative framework. The closer training content is to the work one does, and the greater trainees' perceptions are about the relevance of the knowledge and skills of the training to the task, the easier it is to apply the training to the job (Baldwin & Ford, 1988; Brinkerhoff & Montesino, 1995; Clarke, 2002; Goldstein & Ford, 2002; Lim & Johnson, 2002; Noe, 2008).

The success cases also emphasised the value of being introduced to the field of gender discrimination and gender violence. As discussed in Chapter Two, the

traditional legal positivist approach to legal education does not include courses in sociology or psychology (Fedler, 1999; Marchetti & Ransley, 2005). Legal practitioners are, therefore, often inadequately prepared to deal with the nuanced socio-economic and psychological issues that arise in the social context domain. For example, the success cases reported that an increased understanding of some of the underlying dynamics at play in gender violence cases helped them suspend previously held prejudicial judgements that impacted on their judicial decision-making.

Another aspect of the training that should be retained is the formal and informal opportunities for socialising with colleagues. All the success cases discussed the value and importance of being able to communicate with colleagues outside of their regular workplaces. The value of this aspect of the workshops is two-fold. Firstly, the workshops provide opportunities to share and discuss difficult cases and legal issues. There is rarely time in their work schedules to engage in lengthy discussions with colleagues. The workshop environment provides space and time for these kinds of discussions in both the formal sessions and informal social gatherings. Secondly, the workshops provide an environment where they can uninhibitedly discuss the traumatic and disturbing aspects of their work. They described the content of their work as often being horrific and not the kind of work you can readily discuss with people who are not judicial officers. This issue emerged as critical as most of the success cases explained that there are no facilities in their organisation for debriefing. They credited the workshops for being places where they could process some of the most difficult aspects of their jobs.

The success case results highlight an apparent contradiction with findings in previous chapters. The results of the theory evaluation in Chapter Five suggest that the design of the programme was flawed in its assumption that it could bring about attitude change and that attitude change could lead to behaviour change. The success case narratives, however, show that the programme helped the success cases learn about themselves, uncover attitudes about which they had been previously unaware and facilitate changes in their court behaviour. One possible explanation for this contradiction is that the individuals who benefited from the programme were ready for, and prepared to, change and the programme served as

a catalyst for them. This could suggest that the timing of the programme was as important as its content. For those individuals who were ready to change their attitude in line with changing societal norms the programme offered them a vehicle to experiment with new ways of thinking and introduced them to different ways of behaving.

Factors impeding successful outcomes

The major factor impeding success for the non-success cases centres on the way the training need was identified and the relevance of the training content for a sub-group of magistrates.

As discussed in Chapter Four the programme staff did not engage in a systematic needs assessment process as the first step in developing the training programme. The social need was identified by the Minister of Justice at the time and was considered relatively wide-spread because of the history of the magistracy. A handful of research projects (Budlender, 1994; Koen, 1995; Murray, 1995; O'Sullivan, 1994) commissioned by the LRG substantiated the underlying social need for transformation of the magistracy. None of these research projects targeted a substantial sample of magistrates and attempted to probe their training requirements. Neither did the projects systematically document the current performance of magistrates and attempt to compare their performance to set standards or criteria. This issue is dealt with in more detail in the recommendations section of Chapter Eight.

All four non-success cases indicated that the training was not useful for them as they were already implementing the intended goals in their work. These individuals had previously reflected on their assumptions, prejudicial attitudes and stereotypes prior to the training. They did not, therefore, extract this value from the workshop activities. It appears from this result that the LRG was not selective enough in its choice of participants. A more refined selection or invitation process would have allowed programme staff to target magistrates in need of the training. The issue of

target audience will also be discussed further in the recommendations section of Chapter Eight.

Conclusion

The application of the SCM to evaluate the LRG's social context training programme was experimental, in that it has not been previously used to evaluate similar programmes for judicial officers. It is valuable, therefore, to reflect on the strengths and limitations of the method for this kind of programme.

The key strength of the method is that it evaluates to what extent, and how, the trainees apply the intended programme outcomes in their work. The SCM allowed the evaluator to extract concrete evidence of how the LRG's social context training programme contributed to changes in programme participants' attitudes, knowledge, behaviour and skills.

The method is also based on standard principles of scientific enquiry such as survey techniques and naturalistic inquiry or qualitative data collection and analysis (Brinkerhoff, 2003, 2006a). Applying these established research techniques in the framework of the SCM created a robust conceptual structure for the evaluation process.

The Conceptual Protocol Model (Brinkerhoff, 2003) provided the researcher with a clear template with which to structure the qualitative interviews and analyse the qualitative data. This template facilitated working with the data in a systematic and rigorous manner.

Brinkerhoff's (2003, 2006a) SCM is user-friendly in that its stages are unambiguous and relatively simple to apply in a given context. The method also provides in-depth, nuanced and descriptive information for programme staff to use for future programme improvement.

A limitation of the SCM is its purposeful focus on extreme cases as opposed to attempting to draw conclusions about the “average” programme participant. A limitation of focusing on the extremes is that one cannot make overall judgments about the programme in its entirety (Brinkerhoff, 2003, 2006a). The SCM, however, is premised on the notion that focusing on the “average” programme participant can mask real evaluation results (Brinkerhoff, 2003). The aim of a SCM evaluation is to draw conclusions about what appears to be working, and not working, in the programme and how this information can be used to improve the programme for future users. It offers information about what aspects of the training should be retained and what aspects require revision. This kind of information is perhaps more valuable than summative judgments, especially for ongoing programmes.

Another limitation of the SCM is that it relies on a self-report survey which is vulnerable to biased and unreliable results. This is a possible limitation of all self report inventories. The evaluator attempted to counter this limitation through the confirmatory telephonic interviews where she probed the accuracy of the information in the survey. The confirmatory telephonic interview was designed to establish the legitimacy of the information contained in the survey.

Unlike evaluations based on experimental or quasi-experimental designs, the SCM cannot lead to conclusions about causality. The evaluator has not provided scientific proof that the outcomes achieved by the participants are directly caused by training. She has, however, provided evidence that the success cases attribute the achievement of certain outcomes to the LRG’s social context training programme.

A central limitation of this outcome evaluation is the low number of magistrates who responded to the SC survey and the small number of magistrates interviewed. Due to this constraint the results of this study cannot be generalized to the broader population of magistrates who attended training. The results of the success case analysis reveal that the programme made a worthwhile contribution to the work and work lives of the eight success cases but this result cannot be extrapolated further.

Despite these limitations, evaluations have practical validity if their results can impact on action (Rossi, et al., 2004). In the following chapter, the suggestions of both the success and non-success cases, and suggestions emanating from the conclusions of previous chapters, are used to develop useful recommendations for future social context training programmes.

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CHAPTER EIGHT

Using Evaluation Evidence to Improve Social Context Training Programmes

There is often discord between how evaluators see themselves and their roles, compared with how stakeholders view evaluators and evaluation (Donaldson, 2001).

Many evaluators describe themselves as working in a helping profession, a profession that is directed at solving social and human problems and improving services attempting to address social needs (Donaldson, 2001; Rossi, Lipsey and Freeman, 2004; Rose & Davidson, 2003; Shadish, Cook, & Leviton, 1991; Wholey, 1994). This perspective on the work of evaluators is not always mirrored in the perspective of programme stakeholders who may experience evaluations as disagreeable and anxiety provoking (Donaldson, 2001; Donaldson, Gooler & Scriven, 2002). This discord can be attributed partially to the ongoing debate in the evaluation community about the question of evaluation value and the appropriateness of recommendations emanating from evaluations (Chelimsky, 1995; Iriti, Bickel & Awsumb Nelson, 2005; Saunders, 2006; Scriven, 1991; Weiss, Murphy-Graham; Petrosino & Gandhi, 2008).

As this evaluation was not commissioned by an interest group or stakeholder but as an academic pursuit to contribute new knowledge in this field, the results are not geared towards serving a particular agenda but rather serve as suggestions for consideration for future training endeavours.

The recommendations generated from the evaluations in this thesis aim to provide future programme designers and stakeholders with an informative basis of knowledge about the field of social context training of judicial officers in South Africa.

The suggestions for consideration are structured around the value chain of evaluation events presented in the introduction of this document and replicated here in Figure 14.

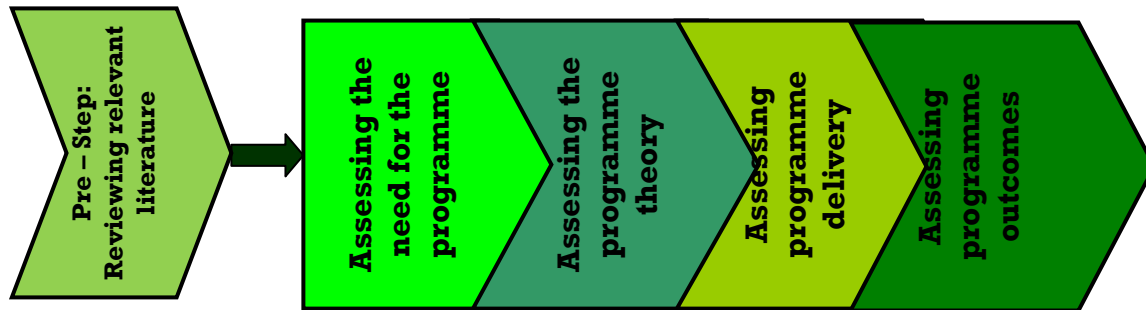


Figure 14. Value chain adapted from Rossi et al.'s (2004) evaluation hierarchy

Suggestions for consideration

Global Trends and Best Practice

The results from an analysis of global trends and best practices in social context training concluded that the current state of social context judicial education in South Africa is not aligned with all these practices. The proposed new National Judicial Education Institute (NJEI) provides an opportunity to remedy some of this misalignment. Being a Department of Justice and Constitutional Affairs initiative the NJEI will be established by an Act of parliament and hence its purpose and programmes will be legally mandated. It will be necessary for the NJEI to garner adequate support and endorsement from senior leadership in the justice system to promote its programmes. The NJEI may not develop all its own programmes but may outsource some of the training to external training providers like the LRG Unit.

Having a centralised training body for the judicial system will allow programme designers to develop an integrated curriculum for all levels of the judicial system and ensure that sensitivity to social context issues permeates to all its officers and through all its operations.

Armytage's (2004) work on judicial education emphasises the importance of judge-led and court-owned programmes. Judges need to be leading the NJEI and its programmes need to be perceived as integral to the justice system in order for there to be commitment to principles taught in social context training across all its levels and by all its members.

Systematic needs identification process

Chapter Four presented evidence to suggest that in post-apartheid South Africa there was a burning need for fair court practice. The LRG's programme was developed in response to this need but no systematic needs assessment was conducted. Hence the LRG's programme was not developed in response to a nuanced assessment of specific learning needs.

In Chapter Five the theory evaluation revealed there was some disagreement amongst the programme designers about the intended purpose of the training. One programme designer envisioned developing a training programme which emphasised substantive law issues and focused on training magistrates on the content of new and evolving legislation. The other programme designer envisioned a programme which focused on personal transformation and anti-bias training. This conflict was never resolved and in part is related to the designers' lack of information about the social research evidence and actual learning needs of the target audience.

Both of these issues (the lack of a needs assessment and the conflicting views about the purpose of the training) influenced the design of the training. The results of the non-success cases indicate that the training content of the LRG's social context training programme was not relevant to their needs. This result suggests that the learning needs of magistrates are not uniform.

The lack of a systematic needs assessment resulted in a scenario where there was no information about who specifically had the learning need or how the learning need was distributed among the target group. In the absence of this information, it is

difficult to conclude whether or not the target group (i.e. all magistrates working in South Africa) was the target group most likely to benefit from the training intervention or whether the intervention chosen was the most appropriate to address the learning need.

A key recommendation for future training interventions is that programmes be developed in response to documented learning needs. Time and resources must be allocated to a comprehensive needs identification study prior to the design and development of future interventions. Such a process would be able to answer some of the unanswered questions mentioned above.

Future needs assessments could focus on a representative sample of magistrates and judges working in South Africa in order to ascertain perceived learning needs for both groups of judicial officers. There are a variety of techniques one can employ to identify training needs. An appropriate choice of technique in this case would cater for the size of the target population and their diversity in terms of location, tenure, experience and education level. For example, the training needs of magistrates working in isolated rural communities may differ from those of magistrates working in urban centres. Similarly, the training needs of newly appointed magistrates may differ from their longer-acting colleagues. The technique should uncover systematic differences between various subsections of the magistrate and judicial population.

Improving Programme Impact Theory

Recommendations identified in literature reviewed for this evaluation suggest that one way of improving programme impact theory would be to develop clear and measurable programme goals (Mager, 1984; Truelove, 2007; Rossi, et al., 2004). A major task when designing a learning intervention (developing training materials and choosing instructional methods) is the articulation of distinct objectives (Mager, 1984). Documented programme objectives should include the behaviour or performance being targeted, the conditions under which that behaviour occurs and, where possible, standards against which satisfactory performance can be measured (Mager, 1984; Truelove, 2007). A recommendation in this regard would be to

develop learning objectives that speak directly to the “...changes the program aims to bring about...” (Rossi et al., 2004, p.149).

It is easier to evaluate the outcome and impact of programmes with unambiguous measurable objectives. In the LRG’s case, the programme was designed by subject area experts (areas such as human rights law, civil law and common law) and human rights activists as opposed to individuals experienced in programme design and development. This may account for some of the limitations in the way the programme objectives were articulated. The results of this evaluation highlight the benefits of collaboration between future programme designers and evaluators during the conceptualisation phase of the programme. Evaluators can offer useful insights into programme design. Evaluators generally interface with established programmes and are tasked with providing formative or summative evaluations. While their work can make meaningful contributions to programme improvement by evaluating a programme at its conclusion, it may be more valuable for evaluators to work with programmes from their inception. Evaluators’ involvement at the initial stages of programme design may be useful because they work with objectives and assess whether objectives are met. Evaluators could assist by ensuring that objectives are feasible, valid, reasonable and measurable from the outset.

Evidence from the theory evaluation suggests that the programme impact theory is flawed in that it assumes that a change in racist and sexist attitudes will lead to a change in racist and sexist behaviour. The theory evaluation concluded that the causal logic underlying the LRG’s programme neglects some of the complexities in the attitude- behaviour relationship. The programme’s causal logic implies a simple linear relationship whereby increasing awareness and changing attitudes will bring about changes in behaviour. The evaluation concluded that there is scant evidence to support this causal logic because attitude change does not automatically lead to behaviour change. The evaluation also suggested that deep-seated ideologies like racism and sexism may not be amenable to change through individualistic self-reflection over a two-day workshop process. The programme designers were also working on the assumption that they were dealing with explicit prejudices, rather than implicit prejudices, which are harder to confront and even less likely to eliminate in a two-day workshop.

Racist and sexist ideologies play an insidious role in our society by maintaining the status quo of power relationships and justifying power differences. Designers of future social context training programmes would need to take cognisance of these ideologies when developing future interventions of this nature.

Another suggestion for consideration for future programmes that focus on reducing bias, and changing discriminatory behaviour, is to use social science research and theories to inform programme design. For example the theory of reasoned action (TRA) (Ajzen & Fishbein, 1980; Fishbein & Ajzen, 1975) postulates that behaviour is directly influenced by intention. Intention is defined as a mindful choice to act in a particular way. By applying these theories the causal logic of social context programmes for magistrates could be strengthened not only by attempting to increase their awareness of prejudice but also by engaging them in developing strategies for controlling their behaviour. The programme activities should focus not only on awareness but also on intentions. This would involve developing learning objectives that are action-oriented and directed at changing behaviour instead of focusing on changing attitudes. One of the ways to go about this would be to align the training objectives directly with actual performance criteria laid out by the Department of Justice and Constitutional Affairs. As part of the needs identification process, programme designers could consult with management about acceptable institutional practices and behavioural norms and use these in defining programme objectives.

The programme impact theory could be further strengthened by distinguishing between two categories of change processes. The first category relates to applying knowledge and skills of substantive law issues while the second category relates to increasing awareness of social context concerns. The former category would involve skills application workshops that are designed to address job-specific learning needs, while the latter would involve awareness workshops.

Skills development workshops might focus on developing skills to work with new legislation, case law, controversial judgments and complex legal issues. These workshops could be designed to help magistrates improve their skills in interpreting

and applying the legislation. The greater the alignment between the training content and actual job requirements, the greater would be the opportunities for learning transfer and behaviour change. For example recent reports in two South African newspapers (Cohen, 2008; Prince, 2008) suggest that some judicial officers are failing to apply accurately the new provisions of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, No. 32 of 2007. This Act amends the minimum sentencing rules for convicted rapists. Developing an intervention around this Act could help judicial officers grapple with a specific task-related learning need.

A review of the relevant literature revealed that one way of designing an application workshop to promote learning transfer and behaviour change is through integrating self-management strategies in the content delivery. These strategies can help trainees apply their new skills to the work (Broad & Newstrom, 1992; Marx & Burke, 2003; Noe, 2008). One such strategy is identifying the degree of support or resistance in the workplace for the use of the new skill or competencies. Clearly, the more support that exists for accommodating and encouraging learning transfer the greater will be the likelihood that this will happen. One could also argue that programme designers need to understand their trainees' work context and consult with management in both the needs identification and programme design process in order to support trainees in developing transfer strategies. Other self-management strategies include setting goals for applying new skills and developing monitoring systems for evaluating the extent to which the new skills are applied (Noe, 2004). Programme designers could allocate time in their interventions to coach trainees in developing these strategies in order to encourage learning transfer.

Designing anti-racism or sexism interventions that provide increased opportunities for learning transfer or behaviour change is a more complex task due to the lack of information assisting us in the accomplishing this kind of training successfully. The paucity of research or published evaluations on successful diversity or anti-bias interventions that bring about attitude and behaviour change has been cited in the literature (Arai, Wanca-Thibault & Shockley Zalabak, 2001; Chrobot-Mason & Quiñones, 2003; Ferdman & Brody, 1996; Invancevich & Gilbert, 2000; Noe, 2008; Sanchez & Medkik, 2004).

One approach to improving the impact theory of these kinds of programmes could be to understand the influences of the organisational culture. Awareness training may be more likely to bring about results if the dominant organisational culture promoted anti-racism and censured overt expressions of prejudice or discrimination. Artefacts of the organisational culture (e.g. systems, policies and structures which promote anti-racism and anti-sexism within the organisation) could perhaps be included in the design of the intervention and might create opportunities to support attitude and behaviour change. Similarly, top management support in the form of providing resources or advocacy, and management commitment to social context principles could increase the likelihood of post-intervention application (Jayne & Dipboye, 2004). If senior people within the organisation provide examples of, and reinforce, appropriate behaviours this may encourage a filtering down effect to the rest of the organisation and promote post-intervention application.

By differentiating programmes according to separate intervention streams (task-related and awareness programmes) programme designers would be increasing the specificity of training programmes. This would also allow magistrates to select interventions directly related to their particular training need. The availability of differentiated training opportunities may be helpful for judicial managers in the performance management of their staff. Differentiated training interventions would offer these managers a wider variety of potential remedial interventions for performance-related problems.

There are a number of organisational interventions other than training that could be employed to help cope with judicial bias. For example, judicial bias could be managed as a performance issue if the judiciary had a standardised set of explicit standards against which magistrates' work was monitored and evaluated. This would require a performance review process that canvassed feedback about the magistrate's court conduct and monitored judicial decision-making for unlawful discriminatory decision-making. With sufficient training management could address performance problems associated with bias through interventions such as mentoring or coaching.

Behavioural engineering is another example of a more direct method of improving individual performance (Gilbert, 1978, 1996; Rummler & Brache, 1990). Gilbert's (1978, 1996) behavioural engineering model offers managers a systematic process through which barriers to performance can be identified and remedied. The model was designed to offer managers a less expensive and more direct approach to performance enhancement compared with training.

It may be more appropriate to tackle bias amongst magistrates with one of the above approaches. In all three cases (mentoring, coaching and behavioural engineering) it is the responsibility of management to tackle the problematic performance and hence management would need to be both willing and skilled to address the performance directly.

Improving programme design and delivery

The LRG's social context training programme was delivered in the form of weekend workshops. A suggestion that emerged from the results of the success case interview analysis in Chapter Seven is the design and development of longer interventions.

Running a workshop over the weekend translates into a day and a half of training time. This may be inadequate given the nature of the content area on which the training is based. It is interesting to note that even those magistrates who successfully transferred the knowledge and skills from the training back to the workplace (the success cases) suggested that the duration of the workshops could be extended. The extension of workshop duration would mean training outside of weekends. This issue is discussed under the next suggestion.

Another suggestion that emerged from the outcomes evaluation in Chapter Seven was to run the training workshops during the work week instead of over weekends. The timing and scheduling of workshops may impact on who volunteers to attend. Attending workshops on weekends may be difficult for individuals responsible for the care of others (e.g. single parents).

The training of judicial officers in South Africa is generally offered by external service providers. There is perhaps an argument here that external service providers should work more closely with court management in both the design and delivery of their programme and negotiate with court management to change the scheduling of workshops. Court management is responsible for allocating cases to judicial officers and would have to be involved in any scheduling decisions that impacted on the day-to-day functioning of their courts.

Consultations between these groups could enhance the development of training programmes that meet both the needs of the individual trainee and the organisation's performance needs. Developing a consultative working relationship with court management and attaining their support may make issues of scheduling and timing of workshops easier for the service provider.

Improving programme outcomes and impact

The outcome evaluation in Chapter Seven suggests that attitude, skills and behaviour change did take place for the success cases who attended the LRG's social context training programme. The SCM identified individuals for whom the programme contributed significantly and meaningfully to their working lives.

Information from the success case analysis and relevant literature offer us some information on how we can leverage the training to increase the potential outcomes and future impacts for a greater number of magistrates in future interventions. This information pertains to the applicability of the training content to the work of magistrates, the high quality of workshop delivery and activities and the opportunities the training provided for increased social contact.

The suggestions for consideration throughout this chapter may also contribute to improving the development and achievement of outcomes for future programmes.

Conclusion

The discipline of programme evaluation is relatively young and new approaches and theories within the discipline are constantly evolving. The Rossi et al. (2004) framework was chosen for this study as it offered the evaluator a systematic framework to approach a complex programme.

The evaluation attempted to address evaluation questions across the evaluation hierarchy with the aim of producing a comprehensive, multi-layered and nuanced assessment of the various aspects of the programme. The advantage of taking this approach is that it allowed the evaluator to assess different aspects of the programme as opposed to focusing solely on one aspect, such as implementation or outcome.

The pre-evaluation chapters attempted to show that bias and discriminatory practices amongst judicial officers are world-wide phenomena. In some cases, social context training programmes are the chosen intervention to tackle these problems. The political transition in South Africa in 1994 highlighted problems of gender and race discrimination in the lower court system and heralded a process of judicial reform. The LRG was established to research these problems and devise appropriate interventions to mediate their effects. During this time (1998-2004), the LRG was the sole provider of social context training workshops for magistrates nation-wide. Despite its small size and reliance on donor funds, the LRG's programmes were frequented by a large number of magistrates and over 500 individuals attended workshops focusing on race and gender issues. The overwhelming majority of these individuals reported having favourable experiences at the workshops.

While the academic pursuit of the theory evaluation raised questions about the feasibility of the programme to achieve its stated objectives, the results of the outcome evaluation suggested that the programme succeeded in making a meaningful contribution to the work and working lives of numerous participants.

Alkin and Christie (2004) suggest that the discipline of programme evaluation is rooted in the areas of accountability and systematic social inquiry. Accountability refers to the role evaluation can play in promoting the responsible and ethical allocation of resources. Similarly, it refers to the role evaluation can play in improving the effectiveness and efficiency of programmes. “The need and desire for accountability presents a need for evaluation.” (Alkin, 2004, p12). Evaluators can only contribute to the area of accountability if they use systematic techniques of social inquiry in their evaluative endeavours. The aim of this evaluation was to provide useful information for programme developers for the betterment of future programmes in this field.

Through the use of a variety of systematic techniques of social enquiry the evaluator has also provided a documented history of the development, implementation and accomplishments of the programme. This documented history provides a balanced account of the programme’s limitations and its achievements.

Reflecting on the results of this evaluation raises questions about how one best addresses the burning social problem of inequality within a justice system. These questions relate specifically to the capacity of a small donor-funded programme to deliver the conditions of equal justice to all South Africans. While this evaluation is not an impact assessment, this ideal is suggested in the programme’s impact model. Perhaps what is required is a systemic overhaul of the whole justice system, designed to increase efficiency and effectiveness in the delivery justice for all South Africans. Future institutionalised and officially endorsed social context training programmes could enhance and support such a systemic change process and in so doing contribute to transforming public perceptions to see the justice system in South Africa as fair and the cornerstone of a fledgling democracy.

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University of Cape Town

Appendix A: List of records, documents and reports

A list of the records, documents and research reports accessed by the evaluator in chapter 5 is presented here. The records and documents were accessed from a variety of sources such as the LRG's external website (www.lrg.uct.ac.za) and the LRG's intranet which is not available to the public. The evaluator also had access to the LRG's store rooms, filing cabinets and internal library.

1. Administrative documents and promotional materials:

LRG brochures 1994-2005

Annual reports: 1996-2005

Constitutional of the Law Race and Gender Unit

Mission Statement of the Law, Race and Gender Unit

2. Documents related to funding:

Funding Proposals 1999-2004

Progress reports for funders 1999-2004

Donor assessment reports 2002-2005

3. Research articles commissioned by the LRG in early 1990s:

Budlender, D. (1994). ANC women's league's status of South African women: review. *South African Journal of Human Rights*, 10, 290-292.

Currin, B. (1992). Judicial Education and Emerging Democracies. *Rights*, 1, 4.

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O'Sullivan, M. (1994). South African human rights yearbook: review. South African Journal of Human Rights, 10, 296-299.

Sarkin, J., & Wolpe, A. (1999). Evaluation of Law, Race and Gender Unit at University of Cape Town: SIDA/Embassy of Sweden

4. Assortment of historical, popular and theoretical documents:

Newsletters and in-house publications/communication

University of Cape Town

Appendix B: Schedule for initial interviews for evaluability assessment and needs identification process

Background Information:

1. Bio details
2. Please describe the length and nature of your association with LRG

Problem identification and intervention description:

3. What was social problem identified?
4. Who identified the social problem and how?
5. Why was this intervention chosen, what was your thinking/motivation in choosing the intervention
6. How was the training method chosen?
7. Has the method changed over the years? If yes, in what way and why?

The need identification process:

8. What was the need?
9. Who identified the need?
10. Has the need changed over the years?
11. Was their agreement over the need and chosen intervention strategy?

Appendix C: Records, documents and reports used for implementation evaluation chapter six

1. Participant evaluations

Social Context in Judicial Decision-making, place unknown: 22-25 July 1999

Courts and the Community: Making a difference, Coffee Bay: 12-14 May

Courts and the Community: diversity and change, Pietersburg, 4-6 August 2000

Empowering the Judiciary through social context awareness, Knysna: 20-22 Oct 2000

Empowering the Judiciary through social context awareness, Cape Town: 23 – 25 March 2001

Developing skills for effective delivery, KwaZulu –Natal Midlands: 20 – 22 April 2001

Developing skills for effective deliver: social context training for magistrates, Northern Province: 15 – 17 June 2001

Social context training for magistrates, Northern KwaZulu –Natal: 24-16August 2001

Social context training for magistrates: follow-up, Pietersberg: 5-7 October 2001

Social Context Training for Magistrates, Gauteng: 7-9 June 2002

Social context training for magistrates, Western Cape Province: 13-17 Nov 2002

Advancing Equality, applying Social Context, Waterval-Boven Mpumalanga: 6-8 June 2003

Gender issues in the courts, Eastern Cape: 26-28 March 2004

2. External evaluator reports

1999

External evaluator 1, (1999). Social context training for magistrates, North West Province, 25-27 July

2000

External evaluator 2, (2000). Empowering the judiciary through social context training, Knysna: 20 – 22 October

External evaluator 3, (2000). Courts and the community: Making a difference. Coffee Bay, Eastern Cape, 12-14 May

External evaluator 4, (2000). Courts and the community: Making a difference. Pietersburg 4-6 August

External evaluator 5, (2000). Access to justice – a gender perspective, Franschhoek, Western Cape, 15-17 September

2001

External evaluator 6, (2001). Empowering the judiciary through social context awareness. Cape Town: 23 – 25 March

External evaluator 7, (2001). Developing skills for effective delivery, KwaZulu- Natal Midlands: 20 – 22 April

External evaluator 8, (2001). Social context training workshop, Northern Province 15-17 June

External evaluator 9, (2001). Social context training for magistrates: Follow up Workshop, Pietersberg, 27 - 29 July

External evaluator 10, (2001). Social context training for magistrates, KwaZulu Natal 24-26 August

External evaluator 11, (2001). Social Context Training for Magistrates, Umzimkulu District, Eastern Cape. 7,- 9 December

2002

External evaluator 12, (2002). Domestic violence training workshop, Pietersburg-Polokwane, Northern Cape, 8-10 February

External evaluator 13, (2002). Social context training workshop. Muldersdrift Gauteng 7-9 June

External evaluator 14, (2002). Impartiality and Integrity in the Magistracy, Robben Island, 4 – 6 October

External evaluator 15, (2002) Gender issues training workshop, Nylstroom 11th – 13th October

External evaluator 16, (2002). Addressing domestic violence, Eastern Cape, 1-3 November

External evaluator 17, (2002). Social context training workshop, Fort Beaufort, 5-8 December

2003

External evaluator 18, (2003). Impartiality and integrity in the magistracy, Mpumalanga 7-9 February

External evaluator 19, (2003). Addressing domestic violence in the Western Cape, Western Cape, 11-13 April

External evaluator 20, Balie, R. (2002). Advancing equality, applying social context. Northern Cape 7-9 May

External evaluator 21, (2003). Advancing Equality, Applying Social, Malagas Resort, 6th – 8th June

2004

External evaluator 22, (2004). Social Context, HIV/Aids and Gender-Based Violence, Limpopo, 12 - 14 March

External evaluator 23, (2004), Social context training workshop for magistrates, Eastern Cape, 26-28 March

3. Attendance records

Denial and discovery: Empowering the judiciary through social context awareness, Overberg: 27-29 March 1998

Justice Today: The Final Chapter or a New Beginning, Fish River Sun: 27-29 November 1998

Social Context in Judicial Decision-making, place unknown: 22-25 July 1999

A Fit and Proper Person: How will we be judged? Nelspruit: 22-24 Oct 1999

Courts and the Community: Making a difference, Coffee Bay: 12-14 May

Courts and the Community: diversity and change, Pietersburg, 4-6 August 2000

Empowering the Judiciary through social context awareness, Knysna: 20-22 Oct 2000

Empowering the Judiciary through social context awareness, Cape Town: 23 – 25 March 2001

Developing skills for effective delivery, KwaZulu – Natal Midlands: 20 – 22 April 2001

Developing skills for effective delivery: social context training for magistrates, Northern Province: 15 – 17 June 2001

Social context training for magistrates: follow-up, KwaZulu –Natal Midlands: 27-29 July 2001

Social context training for magistrates, Northern KwaZulu –Natal: 24-16 August 2001

Social context training for magistrates: follow-up, Pietersberg: 5-7 October 2001

Social context training for magistrates: follow-up, Northern KwaZulu –Natal: 2-4 November 2001

Social Context Training for Magistrates, Umzimkulu District, Eastern Cape: 7-9 December 2001

Social Context Training for Magistrates, Hermanus: 21-24 March 2002

Social Context Training for Magistrates, Northern KwaZulu-Natal, 19-21 April 2002

Social Context Training for Magistrates, Gauteng: 10-12 May 2002

Social Context Training for Magistrates, Gauteng: 7-9 June 2002

Social Context Training for Magistrates, Free State: 23-25 August 2002

Gender Workshop, Limpopo/Northern Province: 11-13 October 2002

Social context training for magistrates, Western Cape Province: 13-17 Nov 2002

Advancing Equality, applying Social Context, Waterval-Boven Mpumalanga: 6-8 June 2003

Social Context and Equality – Twin beacons to Guide decision-making, OFS (just outside Vereeniging): 15-17 August 2003

Gender issues in the courts, Eastern Cape: 26-28 March 2004

4. Assortment of in-house documentation

Annual Review (2000-2004)

Funding proposals (1998-2004)

Lead Facilitator workshop reports (2002-2004)

Policy documents (2003-2004)

Reports to funders (2002-2004)

Synopsis reports (2002-2003)

Appendix D: Cover letter and SCM Survey



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LRG's Weekend Social Context Workshop Evaluation: Participant Survey

Law, Race and Gender (LRG) Units weekend Social Context Workshop Evaluation

Purpose of this questionnaire:

The following survey is designed to identify some of the ways in which the LRG Units two day weekend social context training workshops influenced your work. It seeks to establish if the two day workshops led to any changes in your work practices.

Please only complete the survey if you have attended one or more of the LRG Units two day weekend workshops.

Confidentiality:

Your response to this questionnaire will remain strictly confidential. Your participation is voluntary.

Personal information:

For the purposes of identifying individual magistrates for follow up interviews, I have requested names and contact details. All responses will be treated confidentially. Please note that no participant's identity or specific comment will be revealed, anonymity is guaranteed. By participating you are giving your informed consent.

General Instructions:

This questionnaire consists of two (2) sections. Section A deals with the application of training to your workplace, and Section B deals with your personal details.

If you have any queries about the research please do not hesitate to email or call me. My contact details are:

Suki Goodman
021 6502472
suki.goodman@uct.ac.za

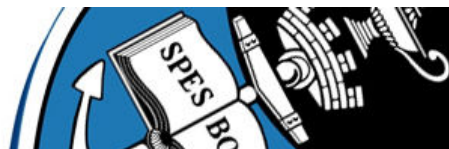


LRG's Weekend Social Context Workshop Evaluation: Participant Survey

1. Application of Training

Please rate (mark with a X) the extent to which you tried the following practices as a result of the training

1. I used the training to hand down more creative sentences (i.e. non-custodial sentences)	<input type="checkbox"/> Tried this and had clear and positive results <input type="checkbox"/> Tried this but had no clear results yet <input type="checkbox"/> Tried this somewhat but do not expect any results <input type="checkbox"/> Tried this and it backfired <input type="checkbox"/> Have not tried this at all <input type="checkbox"/> Tried this but not because of the training
2. I used the training to manage all people fairly in my court	<input type="checkbox"/> Tried this and had clear and positive results <input type="checkbox"/> Tried this but had no clear results yet <input type="checkbox"/> Tried this somewhat but do not expect any results <input type="checkbox"/> Tried this and it backfired <input type="checkbox"/> Have not tried this at all <input type="checkbox"/> Tried this but not because of the training
3. I used the training to improve my understanding of the diverse needs of the people who appear in my court	<input type="checkbox"/> Tried this and had clear and positive results <input type="checkbox"/> Tried this but had no clear results yet <input type="checkbox"/> Tried this somewhat but do not expect any results <input type="checkbox"/> Tried this and it backfired <input type="checkbox"/> Have not tried this at all <input type="checkbox"/> Tried this but not because of the training
4. I used the training to improve my understanding of the unique situations of the people who appear in my court	<input type="checkbox"/> Tried this and had clear and positive results <input type="checkbox"/> Tried this but had no clear results yet <input type="checkbox"/> Tried this somewhat but do not expect any results <input type="checkbox"/> Tried this and it backfired <input type="checkbox"/> Have not tried this at all <input type="checkbox"/> Tried this but not because of the training
5. I used the training to communicate in a respectful manner with my staff and colleagues	<input type="checkbox"/> Tried this and had clear and positive results <input type="checkbox"/> Tried this but had no clear results yet <input type="checkbox"/> Tried this somewhat but do not expect any results <input type="checkbox"/> Tried this and it backfired <input type="checkbox"/> Have not tried this at all <input type="checkbox"/> Tried this but not because of the training



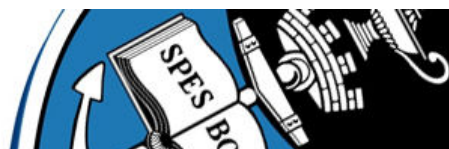
The training has produced the following outcomes:

(Note that you can select as many options as what you want to.)

6.1 Clarified my questions related to the content of new legislation	<input type="checkbox"/>
6.2 Clarified my questions related to the Constitution of the Republic of South Africa 1996	<input type="checkbox"/>
6.3 Clarified my questions related to the content of legislative changes	<input type="checkbox"/>
6.4 Clarified my questions related to the practical implementation of new pieces of legislation	<input type="checkbox"/>
6.5 Increased my understanding of the social and economic circumstances of the people who appear before me in my court	<input type="checkbox"/>
6.6 Increased my understanding of how my personal prejudices impact on my court practices	<input type="checkbox"/>
6.7 Increased my understanding of how my personal prejudices impact on my judicial decision-making	<input type="checkbox"/>
6.8 Increased my understanding of racism and sexism in general	<input type="checkbox"/>
6.9 Introduced me to strategies for thinking about my own biases	<input type="checkbox"/>
6.10 Increased my understanding of how my attitudes about people who are different to me can impact on my work behaviour	<input type="checkbox"/>
6.11 Clarified my understanding of my role as a judicial officer in a transforming society	<input type="checkbox"/>

7. Which statement below best describes your experiences since participating in a LRG two day workshop (Please mark the statement)?

- ☐ I learned something new, I used it, and it has led to some very worthwhile results
- ☐ I learned and tried some new things, but can't point to any very worthwhile results
- ☐ While I may have learned something new, I have not been able to use it yet
- ☐ I already knew about, and was doing, the things this training taught
- ☐ I don't think I can really use what I learned in the training



2. Demographic Information

1. Please indicate the number of two-day LRG's Social Context training workshops you have attended:	
2. Please indicate the theme/s of the two-day LRG's Social Context training workshop/s you have attended (i.e. gender violence/general social context issues):	
3. Please indicate if you have ever acted as a magistrate facilitator on any of the LRG's training workshops	YES <input type="text"/> NO <input type="text"/>
4. Gender	Male <input type="text"/> Female <input type="text"/>
5. I was previously classified as:	Black <input type="text"/> White <input type="text"/> Coloured <input type="text"/> Indian <input type="text"/> Other <input type="text"/> Unspecified <input type="text"/>
6. Province:	Western Cape <input type="text"/> Eastern Cape <input type="text"/> Limpopo <input type="text"/> The Northwest <input type="text"/> Gauteng <input type="text"/> Free State <input type="text"/> KwaZulu-Natal <input type="text"/> Mpumalanga <input type="text"/> Northern Cape <input type="text"/>
7. Courts	Regional <input type="text"/> District <input type="text"/>
If you are willing to take part in an interview about your experiences of the social context training please provide the following contact details:	
8. Surname, initial and title:	
9. Telephone number and code:	
10. Email address:	

Appendix E: Confirmatory Interview Schedule



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Confirmatory Interview Schedule

Success Cases:

- It seems from your survey responses that you gave the Social Context training either full marks or near full marks so I presume that you found the training to be very useful?
- You indicated that you have had clear and positive results from applying the different skills? Could you tell me a bit more?
- Could we perhaps schedule a time to discuss your experiences of the training in an interview. Interviews are anonymous and the information used would in no way be linked to you personally.
-

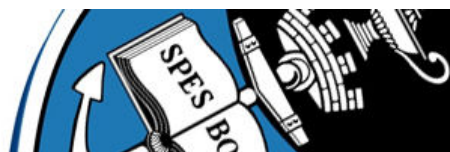
Non-Success Cases

- It seems from your survey responses that you did not benefit from the Social Context training and did not find the training particularly useful, is this accurate?
- Could we perhaps schedule a time to discuss your experiences of the training in an interview? Interviews are anonymous and the information used would in no way be linked to you personally.

Appendix F - Success Case Method Interview Schedule



UNIVERSITY OF CAPE TOWN FACULTY OF COMMERCE



Success Case Method Interview Schedule:

Experiences of the Law Race and Gender Unit's Social Context Training for Magistrates

Success Case Interviews:

- Can you tell me a little bit about your background, how you got into the magistracy and your length of tenure as a magistrate
- Please describe the Law, Race and Gender Unit's social context training courses that you attended?

Bucket 1 What was used

- Can you describe the context in which you applied/are applying skills/knowledge behaviours developed in the social context training
- What aspects of the training were used
- What have you used from the training that you feel worked?
- What parts of the training have you used most?
- What parts of the training have you used least?

Bucket 2 What results were achieved

- You indicate that you had clear and positive results from the training
- What has the training helped you achieve
- Were there any measurable results/improvements in practice and can they be described
- Is there any evidence to substantiate that the training helped/can you give examples of how the training helped
- What factors/aspects of the training contributed most to changes in behaviour

Bucket 3 What good did it do

- Why are the results important?
- What kinds of goals/values were achieved by applying the training
- Any negative outcomes avoided because of training

Bucket 4 What helped

- What facilitated training transfer?
- Any incentives?

Bucket 5 Suggestions

- Suggestions for increased success

Non - Success Case Interviews:

Bucket 1 Barriers

- What barriers prohibited you from implementing the skills and behaviours covered in the training?

Bucket 2 Suggestions

- Suggestions for increased success